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Legal Discourse, Conceptual Metaphors, and Basic Writing Programming: A Study of Ayers v. Fordice

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The University of Southern Mississippi

LEGAL DISCOURSE, CONCEPTUAL METAPHORS, AND BASIC WRITING

PROGRAMMING: A STUDY OF *AYERS V. FORDICE*

by

Joyce Olewski Inman

Abstract of a Dissertation

Submitted to the Graduate School
of The University of Southern Mississippi
in Partial Fulfillment of the Requirements
for the Degree of Doctor of Philosophy

December 2011

ABSTRACT

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In what ways does legal discourse influence our perceptions of students labeled as basic writers and these students' perceptions of themselves? How does standards-based discourse affect student writers' abilities to define themselves in academe? This dissertation involves an examination of legal and public discourse surrounding *Ayers v. Fordice*, one of the most prominent desegregation cases in higher education, in an attempt to answer these questions. Its intent is to explore how conceptual metaphors prevalent in these discourses affect our understandings of basic writing programming in the state of Mississippi but also in the field of composition more globally.

My project is framed within three fields of study: composition theory, studies of language and law, and socio-cognitive linguistics. My study begins by contextualizing the exigency for additional research regarding how legal discourse impacts institutional policies, public discourse, and composition classrooms. I then examine how legal discourse shapes institutional policies and public discourse surrounding basic writing programming through critical discourse analysis of the federal judicial opinions that constitute the *Ayers* case and identify three primary conceptual metaphors that are repeated throughout the twenty-five year long case. This study led me to conduct archival research regarding how the public responded to the court case and the institutional agreements that resulted. The same conceptual metaphors present in the judicial opinions

of the case were overwhelmingly present in archived federal and local newspaper articles as well as letters to state government officials from private citizens.

My readings of these documents show that while the final *Ayers* settlement suggests additional access for Mississippi students traditionally denied entry to college, the legal and public discourse addressing the case does not support these same aims. The study concludes by calling for an awareness of how conceptual metaphors are yoked to the discourse surrounding basic writing programs among writing program administrators and presenting suggestions for making rhetorical spaces that will allow basic writing students to define themselves.

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A Dissertation
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TABLE OF CONTENTS

ABSTRACT	ii
ACKNOWLEDGMENTS	iv
CHAPTER	
I. INTRODUCTION	1
Basic Writing and the Institution: The Road to an Impasse The Field of Composition and Rhetoric and the Law	
II. LANGUAGE, LAW, AND THE POWER OF METAPHOR	21
The University of Southern Mississippi and <i>Ayers</i> Lore <i>Ayers v. Fordice</i> : A Case Study The Function and Ideology of Judicial Opinions Critical Discourse Analysis: An Overview Critical Discourse Analysis: Metaphorical and Literal Enactments	
III. <i>AYERS V. FORDICE</i> : A CASE STUDY IN CONCEPTUAL METAPHOR	46
Law as Looking Glass Racism as Environmental Disease Moral Politics and Competing Views of Basic Writers	
IV. <i>AYERS V. FORDICE</i> : PUBLIC RESPONSES AND INSTITUTIONAL ENACTMENTS.....	80
<i>Ayers v. Fordice</i> , Conceptual Metaphors, and the Mainstream Press <i>Ayers v. Fordice</i> , Moral Politics, and Media Discourse Conceptual Metaphors and Subject Positions Enacted in Political Correspondence Institutional Policies and Basic Writing Programming	
V. REFRAMING BASIC WRITING PROGRAMMING: RECOMMENDATIONS FOR BREAKING OUT OF THE GHETTO .	116
<i>Ayers</i> , USM, and the Summer Developmental Program Arizona State University and the Stretch Program Community College Baltimore County and the Accelerated Learning Project The University of Southern Mississippi and Composition I-Expanded	

APPENDIXES	144
WORKS CITED	169

CHAPTER I

INTRODUCTION

Education may well be, as of right, the instrument whereby every individual in a society like our own, can gain access to any kind of discourse. But we well know that in its distribution, in what it permits and in what it prevents, it follows the well-trodden battle-lines of social conflict. Every educational system is a political means of maintaining or of modifying the appropriation of discourse, with the knowledge and the powers it carries with it.

Michel Foucault, *The Discourse on Language*¹

The question of whether basic writing programs maintain or modify the appropriation of discourse—and the powers that discourse “carries with it”—is not new, and it continues to be a major source of contention as composition scholars critically examine the institutional discourse that frames basic writing pedagogies. Indeed, for almost forty years the field has debated the status of basic writing and the function it plays in promoting access or perpetuating an always-new student subclass. The resulting scholarly impasse involves whether a) basic writing programming performs a necessary service to students often considered underprepared by traditional standards by offering them access to an educational institution to which they might not otherwise have been accepted; or b) if it serves the institution as a means of generating additional tuition moneys (for classes that do not normally include any college credit) and creating merely a façade of equal power relationships between the community and the ivory tower. Each of these arguments is extremely complex, and both have merit. What is missing from these conversations, however, is an inquiry into how and why these representations of basic writing programs continue to exist at cross-purposes. Not only do these polarized

perspectives regarding the role of basic writing in higher education influence how various communities view basic writers, but ultimately they also influence how basic writers view themselves. This project will examine the various ways legal discourse literally frames, affects, and makes possible these competing situations and subject spaces—the transformation *and* the ghettoization of students who are considered “basic writers.”²

Hence, my project is intended as a catalyst for discussion concerning the ways legal discourse has the potential to enact specific identities and activities involving the basic writing classroom. Over the past two decades a growing number of scholars have argued that legal discourse, spoken and written language distinctly associated with judicial proceedings, plays a primary function in social construction. These scholars represent numerous disciplines: composition and rhetoric, linguistics, cultural studies, law, political science, and philosophy.³ In general, each of these scholars considers language as ideological and as a “regulated and regulating social institution” (Stygall 4). The recognition of law as a language has allowed compositionists specifically to view legal documents as much more than the “rules and regulations” of our society, and instead as both written and verbal texts that are representative of and that construct power relations in our society. Indeed, in *Legal Discourse: Studies in Linguistics, Rhetoric, and Legal Analysis*, Peter Goodrich claims that legal discourse is “pre-eminently the discourse of power” (88). As I attempt to articulate the connections between legal discourse and the various subject identities at play in basic writing programming, I will assume a similar stance, adhering in this project to James Paul Gee’s theory that “language has meaning only in and through social practices,” and, consequently, that legal language enacts social perspectives and identities (*Discourse Analysis* 8).

In order to explore the relationship between legal discourse and basic writing programming, this project will explore the legislation enacted by *Ayers v. Fordice*, one of the most prominent desegregation cases in the history of higher education, through critical discourse analysis of the judicial opinions that constitute the case, the public discourse in response to the case, and the resulting institutional mandates. Very little scholarship exists regarding *Ayers v. Fordice*, despite the case's significance to battles over segregation in higher education, and there is no scholarship addressing the final settlement's impact on the basic writing classroom. I hope to initiate a conversation regarding how legal discourse frames basic writing programming by examining the effects of the *Ayers* case on marginalized students in what one might easily characterize as the most marginalized state in our nation—Mississippi. And though Mississippi's history with basic writing is unique in some respects, it is my belief that a critical examination of the local ways in which students are affected (in most instances unknowingly) by legislative acts will compel further and productive exploration of how the field of composition responds to state and institutional guidelines regarding the teaching of composition more globally.

Indeed, the impact of legislation on access, diversity, and marginalized student populations drives much of the scholarship directed at basic writing. Much of the discourse surrounding the histories, pedagogies, and theories of basic writing stems from research that explores the “effects” of open admissions legislation on students, instructors, and institutions. However, while current basic writing scholarship contemplates the history of higher education institutions and their responses to underprepared student populations due to such state and institutional legislative acts, it neither adequately addresses how this legislation directly connects to the composition

classroom, nor does it look specifically at the legal language that both enables and disables those same classrooms. In what follows, I wish to examine several important texts in the field of composition in an attempt to establish the exigency for this research based on two central premises: a) that basic writing is intimately related to, and in some ways a product of, legislative rhetoric regarding underprepared students; and b) that while more current discussions regarding the institutional language defining basic writers continue to look at the field's relationship to open admissions, they tend to ignore the institutional and legal language that comprises such legislation as well as how such discourse affects basic writing programming and students.

Basic Writing and the Institution: The Road to an Impasse

One need only look to Mina Shaughnessy's seminal text, *Errors and Expectations*, to see the most visible of the field of composition's responses to legislative acts and the writing classroom. Shaughnessy attempted to address the needs of basic writing students enrolled at CUNY during their open admissions experiment.⁴ However, while Shaughnessy's research was in response to legislation, her published works concentrate on the very immediate needs of basic writers affected by open admissions, not the specific legislative acts themselves. Not surprisingly, Shaughnessy's call for practical pedagogical research in relation to teaching basic writers led to a large amount of scholarship aimed at defining why basic writers encounter problems in their writing as well as how these problems should be addressed in the classroom. Much of this early research regarding basic writers embraced cognitive research practices involving the writing processes of these students,⁵ and partly due to this movement, the 1980s saw a paradigm shift in the field's responses to basic writers. Scholars began to consider basic

writers as individuals in multi-layered and historically, culturally, and politically varied discourse communities.⁶

The resulting set of charged debates regarding basic writers, in turn, led to conversations regarding the programs serving these students as the field of composition began to examine the institutional discourse that characterizes basic writing programming. For example, it is this institutional discourse regarding access for underprepared students that Mike Rose refers to when he defines institutional language about basic writing instruction as a “language of exclusion.” According to Rose, institutions of higher education and even composition programs forward and advocate a “fundamentally behaviorist model of the development and use of written language, a problematic definition of writing, and an inaccurate assessment of student ability and need...it keeps writing instruction at the periphery of the curriculum” (“Exclusion” 341). Language such as that used by Rose, language that points out the institution’s hegemonic denial of the political nature of basic writing, became the prevailing discourse on basic writing as scholars began to debate the conflicting needs and goals of administrations and basic writing students.⁷ Scholars began to note the complete disconnect between administrative and pedagogical goals for basic writing programming, essentially claiming that access, retention, and fiscal responsibility cannot be achieved simultaneously.

For example, David Bartholomae claims that while basic writing programs do unfairly label students and service institutions, they are perhaps a necessary evil to ensure student access. In “The Tidy House,” Bartholomae argues that our concepts of and desires for basic writing programming are in themselves developmental as they have become the following:

expressions of our desire to produce basic writers, to maintain the course, the argument, and the slot in the university community; to maintain the distinction (basic/normal) we have learned to think through and by. The basic writing program, then, can be seen simultaneously as an attempt to bridge AND preserve cultural difference, to enable students to enter the ‘normal’ curriculum but to insure, at the same time, that there are basic writers. (8)

In this compelling critique of the discourse of liberalism and its role in basic writing programming, Bartholomae underscores the institutional politics that hamper the effectiveness of such programming. He acknowledges the practical effects on student admissions and retention if we were to abandon basic writing programming but insists that such courses further alienate students who are already at risk. Bartholomae’s emphasis on the university’s tendency to reason about students in ways that label them as “basic” or “normal,” provides an early glimpse of scholarly critiques of programming formerly defined strictly as a means of access.

In “Our Apartheid,” what may be the field’s most biting example of the scholarly impasse regarding the role of basic writing programming in higher education, Ira Shor is neither ambivalent nor ambiguous when he argues that basic writing is a “mechanism that functions to ease the growing conflict between corporate economic policy and a mass of aspiring students who are being deterred from democracy and from the American Dream” (95). Politically speaking, for Shor, basic writing is a “containment track below freshman comp, a gate below the gate” (94). Shor critiques the social context of basic writing and the political and economic factors that he argues contribute to a top-down enterprise that

can serve as nothing more than an undemocratic tracking system of higher education students.

And while Shor's ideas were met with vigorous responses from the basic writing community defending the need for basic writing courses lest we deny students who do not meet traditional entry requirements access to the university, one cannot overemphasize the impact of "Our Apartheid."⁸ This single article changed the way compositionists view basic writing programming by introducing economic and political discourse to the already fragile conversation regarding basic writing's role in higher education. Shor's argument represents a very clear picture of how institutions and administrators view and use remedial coursework—even if that is not how compositionists view the same courses.

Mary Soliday also examines the history and politics of remediation in higher education, and she echoes Shor's claims that remediation serves institutional needs more so than the needs of individuals. She claims that "remediation exists also to fulfill institutional needs and to resolve social conflicts as they are played out through the educational tier most identified with access to the professional middle class" (1). Soliday cites Marilyn Sternglass' *Time to Know Them* in a discussion of how remediation itself plays a lesser role in student retention and intellectual growth than we, as compositionists, want to acknowledge.⁹ She argues that while

remediation is always with us, it is never present in quite the same ways; it is organized differently to mediate the political needs of institutions at specific moments and places. More directly responsive to changing historical circumstance than any other aspect of English departments, precollege writing instruction is therefore more nakedly reflective of the

material and ideological struggles over access to the B.A. than any other aspect of English studies. (69)

This description of remediation as “always-new” in its service to institutional demands is alarmingly accurate (10). Soliday’s research clearly illustrates how developmental programming is both a response to legislative rhetoric and a political football that is re-envisioned each time it changes hands.

In response to these debates regarding the role of basic writing in higher education, composition scholars continue to both critique and defend basic writing programming, often by citing and reevaluating basic writing’s history and relationship to open admissions. For example, in his critique of “dominant discourse” and its impact on basic writing instruction, Bruce Horner argues that “public discourse on higher education and open admissions perpetuates the denial of the academy as part of the material, political, social, and historical worlds” and that the “cost of such a strategy...has been the erasure of any sort of critical insights that first propelled practices and projects in basic writing and the near permanent institutional marginalization of basic writing courses, teachers, and students” (“Discoursing” 200). Horner explores the binary thinking involved in describing open admission students in both political and non-political terms. Likewise, Min-Zhan Lu examines the political implications of open admissions and critiques compositionists’ responses to the political and socio-economic factors involved in the uproar surrounding the “literacy crisis” of the 1970s. In her critique of early basic writing scholarship and pedagogies, though, Lu extends this argument to illustrate and analyze the relationship between open admissions and standard conventions of writing. She argues that “acculturation and accommodation were the dominant models of open admissions education for teachers who recognized teaching academic discourse as a way

of empowering students, and in both models conflict and struggle were seen as the enemies of basic writing instruction” (“Conflict” 33). Lu and Horner’s concerns regarding the political realities of open admissions and their impact on the writing classroom—despite the scholars’ admitted differences of opinion—gesture toward basic writing programming’s relationship to legislation *and* to academic discourse in provocative ways.

Tom Fox’s *Defending Access* provides yet another illustration of the ways in which scholars examine our history with open admissions legislation and its impact on writing standards as a way to evaluate the role of basic writing in our institutions. Beginning with nineteenth-century Harvard composition classes, Fox historicizes writing standards, specifically examining how they have been used to socially classify and exclude. Fox acknowledges the political, cultural, and historical nature of remediation by describing the meritocratic discourse that labels underprepared students and access to higher education as the “rhetoric of access.” Fox points out that the “argument, as old as freshman composition and as young as yesterday, is that anyone can master a neutral language and that this mastery will create ‘equal opportunity’”; but, in fact, argues Fox, “language is socially located and works to demarcate social boundaries. Economic and social power *precede* school success, not the other way around” (27). As his title suggests, Fox sets out to defend the need for basic writing programming based on our long history of remediation in public higher education. Fox’s emphasis, however, is on our history of writing standards and narratives of institutional change as he attempts to demonstrate how “standards” have been misused to exclude various groups of students and various means of resisting such institutional guidelines.

Each of these scholars views basic writing programming through a specific “discourse lens”—a very specific linguistic representation of the field. What I believe is missing from these cogent arguments is an examination of the concrete and complicated distinctions between the law and the legal discourse that comprises legal decisions. Understanding the law, in other words, is not the same as understanding how the law is constructed, interpreted, and understood. Previous scholarship addressing legislation and composition simply ignores the legal discourse that leads to the institutional policies that these scholars do examine. It is important to note that I am not attempting merely to add yet another “discourse” that we must examine in order to rethink basic writing programming. I believe that an analysis of the connections between legal discourse and basic writing programming could prove to be more fruitful than arguments previously made in the field, in large part, because it will allow us to understand the ways legal discourse mandates and restricts basic writing programming, as well as why competing subject positions in basic writing continue to exist. Compositionists must acknowledge and refer to the field’s responses to open admissions legislation via what would become labeled basic writing programming and the ways the subject positions created for basic writers almost forty years ago continue to define basic writers today. In “Discoursing Basic Writing,” Horner argues that we are in danger of forgetting the lessons learned by early pioneers in the field if we ignore responses to open admissions legislation. I agree with Horner’s assessment, but add that, by not examining both legal discourse and more current legislative acts, we have, in many ways, already forgotten.

The Field of Composition and Rhetoric and the Law

Philosophers and scholars have been discussing the relationship between rhetoric and justice for centuries, and in this section, I will provide a brief overview of the

relationship between the field of composition and rhetoric and legal discourse. For beginning with ancient rhetoricians, the relationship of rhetoric to idealism, rights, rules, justice, the public and the private spheres has led to constant articulations and rearticulations of the ways language constructs and influences communities and how they govern themselves. Aristotle's stasis theory, as developed in Book III of the *Rhetoric*, is a form of invention commonly mentioned in discussions of the relationship between rhetoric and the law due to its emphasis on determining the nature of the questions being asked in a legal setting. The conjectural, definitional, translative, and qualitative questions posed by stasis theory have long been acknowledged as contributing factors to modern jurisprudence, specifically in regards to the influence of stasis theory on Cicero.

Consequently, scholars commonly associate Plato and Aristotle with our notions of civic jurisprudence. However, I agree with Frederic Gale's characterization of sophistry as more significant to Anglo-American jurisprudence than to that of the more prominent Greek philosophers because it was the sophists who recognized the importance of rhetoric to the delivery of practical justice.¹⁰ The sophists of fifth-century Greece understood and rationalized the essential nature of *nomoi*, community specific customs and laws, in regards to rhetoric and social action. Their rejection of eternal truths and their emphasis on "the power of language in shaping human group behavior explicitly within the limits of time and space" represents what is now a distinctly modern view of rhetoric and law (Jarratt *Rereading* 11). Gale argues that, unlike Socratic beliefs in absolute standards and unvarying truths,

the relative importance of the 'appearance' of things and events in contradistinction to their abstract 'reality' was the central concern of the sophists. This view of the world, typified by the philosophy of Protagoras,

leads to an ethics of relativism and to legal realism, the view that the interpretation of laws is a pragmatic, situational concern deeply involved with social practices and economic interests. (28)

The emphases placed by sophists on both perception and situational ethics are extremely relevant to our understandings of the political implications of legal discourse. For the sophists, “human perception and discourse were the only measure of truths, all of which are contingent” (Jarratt 64). Sophists, unlike their contemporaries in ancient Athens, viewed discourse as a means of combating oligarchic political structures and encouraging civic virtue among participating members of Greek society. While numerous schools of thought regarding the relationship between language and reality have entered the philosophical realm since these ancient articulations, the fundamental questions regarding the relationship between rhetoric, the law, the public, and power are nearly the same as they were twenty-five centuries ago. In fact, one might argue that what has changed significantly is the public’s general lack of knowledge regarding the original language of the law.

As mentioned previously, in spite of this interconnectedness of the field of composition and rhetoric and legal discourse, few compositionists currently engage in discourse analysis of the law and even fewer examine the roles legal language plays in the composition classroom.¹¹ Such examinations have enormous potential, given the linguistic, social, cultural, and political complexities of legal discourse. Gail Stygall suggests, “if at least part of the work of compositionists includes understanding the production and consumption of texts in the professional world, the legal community seems an ideal community in which to study that production and consumption, and the effects of both. Yet studies of legal texts are rarely seen under the banner of research in

composition” (“Narrative Discourse Analysis” 262). Stygall argues that the sheer volume of texts produced in the legal realm combined with the high stakes implications and consequences for citizens make the study of these texts imperative in our attempts to map out the effects of legal discourse in local communities. Indeed, in “Unraveling at Both Ends,” an examination of policy statements and community responses regarding basic writing at the University of Washington, Stygall argues that

the challenge for rhetoric and composition scholars in reading [policy statements and public responses] is to take seriously those public documents that educational institutions and governmental commissions on education produce. Legislators and educational policy makers in state governments treat university policy documents as just that—policy contracts. So when these documents contradict and undo other policy initiatives, such as diversity commitments, we must point to the contradictions and present counter arguments. (7)

Stygall’s call to action is pertinent to this project as it points out the complicated roles of state and university policy statements in regards to diverse student populations and access. However, Stygall’s challenge to compositionists is one that has yet to be fully accepted. Scholars have indeed examined the public and institutional policies that influence the composition classroom; they have not, however, considered the legal discourse that comprises the documents that lead to such texts.

Like Stygall, I contend that much of the conflict seemingly intrinsic to basic writing programming, institutional discourse regarding first-year students, and community responses to perceived literacy crises might be addressed more effectively through compositionists’ analyses of legal discourse. The movement to address the

potential roles of legal discourse in the field of rhetoric and composition is also taken up by Frederick Gale. Gale argues:

the discourse of legal interpretive theory must be considered as much a part of the current rhetoric and composition discourse as any other written discourse and as such shares the interests, concerns, and much of the philosophical substrate of the field of language theory; and therefore, legal rhetoric in the scholarly commentaries and the rationales for higher court opinions—that is, the metatext of legal interpretation—may work to undermine justice as it attempts to deliver justice, just as we see that any other rhetoric may reinforce social injustice and repression. (17)

Gale, like Stygall, focuses on the tendencies of legal discourse “to undermine justice as it attempts to deliver justice.” The very notion that the discourse that constitutes a legal case might serve to counterinfluence the decisions of the case is disturbing to say the least. Indeed, James Boyd White argues, “the central activity of law is the reading of texts—cases, statutes, regulations—and their imperfect reproduction and arrangement, in compositions of our making, in contexts to some degree distinct from those in which they were made” (241). White goes on to argue that it is the distinction between a judge’s written opinion and the result of a case that deserves insightful rhetorical analysis. In fact, White claims that very often when the opinion and the result differ, it is the opinion—not the actual result—that has the most effect rhetorically (92). Essentially, White critiques current legal criticism that relies on analytic philosophy and a discourse of economics and, instead, offers a method of legal “translation” based on literary analysis.¹² White examines judicial writings through a lens of both law and social discourse analysis as a means of looking at how we literally build our identities and

communities through language. The suggestion that the written and verbal texts that lead to and stem from the law involve a cultural significance beyond the mere legal statutes is a foundation of this project. Each of these scholars approaches legal discourse from a different perspective while also recognizing the inherent value of such studies in regards to social justice and the field of rhetoric and composition. In fact, inclusion of the study of legal discourse seems both natural, and, perhaps more crucially, necessary when considering the priorities and positions of the field regarding a broad range of issues from students' rights to public and civic discourse.

Not surprisingly, the histories of student access, race, and education in the state of Mississippi are fascinating; however, it is the relationship between these histories and composition that intrigues me and that I explore in Chapter II, "Language, Law, and the Power of Metaphor." In *Is Separate Unequal: Black Colleges and the Challenge to Desegregation*, Albert Samuels argues that "Mississippi represents a classic case study in how racial considerations have profoundly shaped the politics of education in America" (90). Samuels' research considers the manners in which politics and American belief systems are represented in the historic rulings regarding historically black universities and colleges—most specifically in *Ayers v. Fordice*.

Like open admissions experiments at CUNY, the *Ayers v. Fordice* case—filed in 1975—came in the wake of *Brown v. Board of Education* and amid a changing political landscape in higher education. It is historically situated in a manner that mimics yet perverts the goals of open admissions administrators and liberal educators due to the emphasis on both student rights and institutional rights. This case resulted in state mandated requirements for remedial programming in higher education that ultimately, I argue, privilege the institution over students.

As pointed out by Mike Rose, the origins of the word “remedial” can be found in law and medicine.¹³ This provenance seems particularly relevant given my position that legal discourse frames basic writing programming—the most commonly used term in academia for what the public (and many academics) consider *remedial* writing. That said, this project is grounded in the idea that legal language is “the means through which a social goal is accomplished or through which a contested social site may be glimpsed” (Stygall 20). This chapter, therefore, provides a history of *Ayers v. Fordice* and a substantial discussion of the methodology—a combination of critical discourse analysis and social and cognitive theories of language—involved in my attempts to analyze the judicial and community documents related to the *Ayers v. Fordice* case and their impact on the basic writing classroom as a “contested social site.” The overarching goal of the chapter is to explore how legal discourse enables such a site and to establish the crucial relationship between legal language and power by examining the relatively small number of texts in which we can glimpse the ways legal discourse is addressed by compositionists as well as texts in what some consider the sub-discipline of Language and Law.¹⁴ The chapter concludes with a brief introduction to conceptual metaphor theory.

In my third chapter, “*Ayers v. Fordice*: A Case Study in Conceptual Metaphor,” I explore the judicial opinions that constitute the more than twenty-five year history of *Ayers v. Fordice* in an attempt to grapple with how this particular legal battle continues to affect all students pursuing degrees of higher education in this state as well as the field of composition. I begin by examining George Lakoff’s and Mark Johnson’s conceptual metaphor theory and its relationship to how the public reasons about the law, minority students, and educational rights. My analysis of the judicial opinions handed down from

the District Court, Appellate Courts, and the U.S. Supreme Court reveals three major conceptual metaphors that frame our understandings of these documents: Law as Looking Glass, Racism as Environmental Disease, and the liberal and conservative metaphors associated with Moral Politics. An examination of these conceptual metaphors and their rhetorical context provides insight into how legal language, despite rulings that are suggestive of access and acceptance, reinforces a lack of power for students who are required to participate in “remediation.”

Analyses of the judicial opinions in *Ayers v. Fordice* establish the link between legal discourse, basic writing programming in Mississippi, and basic writing subject spaces in general; however, an understanding of the power relations involved in the legal discourse of judicial opinions requires an examination of the community’s response to enacted legislation. One cannot comprehend the extent of the power of legal language without exploring the public’s perceptions and responses to that power. Therefore, my fourth chapter, “*Ayers v. Fordice*: Public Responses and Institutional Enactments,” will consider the ways the national and local press, state officials, and community members represent expected and pre-determined responses to legislation that rely on many of the same conceptual metaphors prevalent in the legal discourse of *Ayers*. For, as suggested by Peter Goodrich,

the law as a structure of material life, as an institution, is a system of images, and it is through its symbolization of authority and through its signs of power that the law dwells within the subject. The law is in that sense nothing other than its image, no more and no less than a sign; it is the spectacle of the scaffold, the aura of judgment, the sense of normal.

(*Language of Law* 210)

Society, in other words, has very little conscious understanding of “the law”; rather, the power of law over society rests more in our unconscious perceptions of what laws symbolize and represent. There is a disconnect between legal statutes, the language of the law, and the public’s perceptions of these laws. Society tends to respond to perceptions, symbols, and interpretations of law, not to individual readings and understandings of legal documents. In addition, the ordinary daily texts that portray these responses—news articles, editorials, and letters to governmental officials—have an enormous impact on institutional policies.

My concluding chapter, “Reframing Basic Writing: Recommendations for Breaking out of the Ghetto,” focuses specifically on the literal impact of *Ayers* at my institution, as well as on the ways in which our programs are yoked to standards-based discourse and conceptual metaphors. My experiences teaching basic writing over the past decade have resulted in my own moral back-and-forth regarding the role of basic writing at my institution. What has not changed, however, is my belief that my students are always unfairly and generically labeled and unduly underestimated. Recently, Kelly Ritter challenged our view of basic writers and access, claiming that current basic writing scholarship often “assumes that those students lacking access, those who are and have been excluded, are of one person-type, one generic group of ‘basic’ that keeps faculty, administrators, and the public from seeing other student groups who have also been marginalized through the gate keeping function of basic writing programs” (13). Ritter critiques our definitions of “basic” and insists that in order to adequately address the needs of individual students, we must take into consideration local and institutional values.

Ritter's call to action partly inspired me to begin this project. The students I encounter on a daily basis are not only not generic, but they are also, in most cases, completely unaware that they have already been defined by our state legislation and, consequently, by our institution. Their position in academe is predefined by standards-based rhetoric that will not allow them to define themselves and their goals. The "flags" and "holds" on their records determine what courses they will take, when they can take them, even when they can register for the next semester—all based entirely on an ACT score. Not only are these students wronged in a sense, but also, by using such measures for academic proficiency, we ignore a student population that also needs additional attention and instruction in the writing classroom because they do not want to take "dummy English." Many students who would benefit from taking a preparatory writing course choose not to do so because they are discouraged by the stigma of a course that offers no academic credit.

I find Ritter's emphasis on first-year writing intriguing, as I believe that, more often than not, basic writing courses are divorced from the first-year sequences employed by most universities. This separation is due, in part, to the marginalization of basic writing programming as it is framed in our legislation, and, in part, to our refusal to truly "see" our basic writers. This final chapter will consider potential responses to the problematic subject positions of basic writers that are enacted, in part, by the conceptual metaphors that constitute legal discourse and the institutional discourse that describes basic writing programming. In addition, I show how these same conceptual metaphors are evident in our scholarly literature regarding basic writers and the programs that serve them. I will conclude by highlighting alternative programming options that effectively bridge the gap between the competing doctrines of basic writing scholarship in an attempt

to allow students to better understand their own subject positions and hopefully reclaim their right to define themselves in the educational arena.

CHAPTER II

LANGUAGE, LAW, AND THE POWER OF METAPHOR

In every opinion a court not only resolves a particular dispute one way or another, it validates or authorizes one form of life—one kind of reasoning, one kind of response to argument, one way of looking at the world and at its own authority—or another.

James Boyd White, *Justice as Translation*

Legal discourse—that is jurisprudence—is rhetorical because it is the expression of a social practice. The law is not a universal, timeless set of rules that arises by necessity but is created, defined, and maintained by the discourse in which it is situated.

Frederick Gale, *Political Literacy*

The details of legal discourse matter because language is the essential mechanism through which the power of the law is realized, exercised, reproduced, and occasionally challenged and subverted.

John M. Conley and William M. O'Barr, *Just Words: Law, Language, and Power*

The introductory chapter to this project examined the impasse among composition scholars regarding the subject positions of basic writing students and the programs that serve them. This chapter, as suggested by the above epigraphs, makes a case for the relationship between legal discourse and social construction. I will explore the ways in which analyses of legal discourse and responses to that discourse have the potential to bring into focus the framework that determines basic writing programming in academic institutions. This examination will include a brief history of *Ayers v. Fordice*, as well as discussion of the various theoretical approaches to analyzing the legal discourse of

judicial opinions. In undertaking this examination, I hope to establish a useful historical context for my project in addition to laying out an argument regarding how legal discourse enacts the subject positions of those in the legal community and the public they profess to serve in interesting and problematic ways. In this chapter, I will also discuss the value of critical discourse analysis, enactment theories of language, and conceptual metaphor theory to the examination of legal discourse and community responses to consequent legislation. These varied approaches to the study of discourse will allow us to reconsider our methods of analyzing judicial texts and how they frame basic writing programming.

In order to contextualize my discussion of the impact of legal discourse on basic writing programming, I feel it is necessary to provide insight into my own experiences regarding how my classroom is affected by legislative acts, legal discourse, and, perhaps more importantly, perceptions of the law. In hindsight, I recognize that while state and institutional mandates continue to affect my classroom in various ways, perceptions of these laws infiltrated all aspects of basic writing programming at my institution with almost a trickle down effect—the type of effect in which the message gets diluted and misrepresented at various levels. In addition, it is clear to me that my administrative and classroom experiences are in no way unique to my institution; rather, they are a trend in higher education today.

The University of Southern Mississippi and *Ayers* Lore

The University of Southern Mississippi is an institution to which I have been attached for more than a decade. Located in Hattiesburg, Mississippi, a city with a population of roughly 45,000 people, USM serves a diverse student population of almost 16,000 students. During the 2010-2011 academic year, USM enrolled 15,778 students.

Of these students 59% self identified as Caucasian and 41% self identified as non-Caucasian. 27% of these students self-identified their racial identities as African American. Just as interesting, however, is that of the 2,677 admitted and enrolled first-year and transfer undergraduate students for the Fall 2010, 59% self identified as non-Caucasian, and 35% of these students identified themselves as African American. In addition, the average composite ACT score for first-time entering freshman at USM is 21.6.¹⁵ One of eight four-year, public institutions in the state of Mississippi, USM is often considered by locals to be somewhat of a stepchild in regards to the state institutions—overshadowed by well-endowed SEC schools such as Mississippi State University and Ole Miss. Founded in 1910 as a teacher’s college, USM was officially granted university status by the state in 1962. Now a comprehensive doctoral and research extensive university, USM’s mission is to “cultivate intellectual development and creativity through the generation, dissemination, application, and preservation of knowledge” (“Vision, Mission, and Values” n.pag.).

Like many public universities, USM is striving to fulfill its mission and maintain the intellectual rigor of its programs while often dealing with students who are not considered adequately prepared for college-level work. The Department of English comes in contact with almost every student who chooses to enroll at USM as a freshman through our requisite first-year composition program and our core world literature course. And as is the case in many institutions, much of the university considers our first-year composition sequence to be a gatekeeper sequence designed to filter out students who might not meet college requirements. The same professionals who hold this perspective, more often than not, consider our basic writing programming to be even less significant to the progress of university students.

In compliance with regulations established by Mississippi's Institutions for Higher Learning (the elected governing board for the eight state institutions), my institution currently requires an Introduction to Composition course (ENG 099) for students with an ACT index of 16 or below, students whose scores suggest they might not be prepared for college-level writing. In my previous position as the Basic Writing Coordinator for the English department, I was responsible for designing the syllabi and assignments for this course, mentoring teaching assistants and adjuncts teaching the course for the first time, and performing assessment procedures in order to determine the course successes and any apparent inadequacies. My position was classified as a one-year, visiting faculty instructorship. I accepted this position the summer of 2008 after meeting the new Director of Composition. I was extremely excited by our conversations regarding the potential for the program to address problems facing USM students. I knew the position offered no real job security, but basic writing had always been my passion. In my previous positions at USM as a graduate, adjunct, and full-time instructor, I was one of the few instructors who requested to teach the developmental writing course. Interestingly enough, the longevity of my relationship with this institution is the only reason I had any awareness of *Ayers v. Fordice* and its impact on basic writing in Mississippi.

That said, I now realize that while I knew there were these "laws" somewhere in the academic stratosphere, I actually had very little knowledge of the laws or how they affected my students or me. My knowledge base was from snatches of conversation in hallways and reminders that certain things had to be done because of "the *Ayers* case." I remember the Fall semester of 2002 we suddenly offered a record number of ENG 099 classes. When I asked about the reasons behind this scheduling move (up until this point

we only offered two sections of the course per semester on average), I was told it was because of “the *Ayers* case” and that the University could be sued if we did not offer the courses. During this particular phase of my life, I had chosen to accept a position administering federal grants regarding service-learning and literacy and was an adjunct instructor studying to take my comprehensive exams. In hindsight, I recognize that my response as an adjunct instructor to this new development—“the *Ayers* case”—was no response at all. I ordered my books, and I taught my classes. No one informed me about the *Ayers* case, but I also did not ask any questions. I simply assumed that someone else with more authority, power, and foresight than I was doing what was necessary to ensure compliance with what I thought was merely University anxiousness about potential law suits.

When I accepted the Basic Writing Coordinator position six years later, I again encountered the lore of “the *Ayers* case.” I sat down to discuss the position with a friend and former colleague who was relinquishing the position in order to take a position at another university. My colleague was generous with her time, advice, and experience. While explaining the position and its challenges, she discussed requirements for student syllabi, grading requirements, and enrollment caps. When I asked questions about these issues, however, the answers were always the same: “IHL requirements” or “because of the *Ayers* case.” Yet again I found myself nodding my head in agreement and purported understanding, and I diligently took notes regarding her suggestions.

The Director of Composition and I met regularly to discuss our plans for the basic writing program at USM, and we found ourselves desiring a certain level of flexibility in regards to the development of effective programming for our students. We knew that Mississippi was one of a handful of states in which a governing state board mandates

laws concerning “remedial education,” so I researched the state guidelines for developmental coursework.¹⁶ This led to the relatively complicated layer of mandates, funding, legal documents, and, one might even suggest, sheer assumptions, regarding these courses and their relationship to the *Ayers* case. The histories of student access, race, and education in the state of Mississippi were fascinating, and their potential relationship to basic writing intrigued me as I approached our programming.

Prior to the semester beginning, I was invited to participate in an IHL Strategic Planning Session for Developmental Education at which all eight public universities were to be represented. I was relieved to be attending this meeting as I was certain it would lead to further understanding regarding IHL recommendations and requirements for basic writing programming at my institution—including *Ayers*. However, while there was general information provided about the history of the summer developmental programs at Mississippi’s public universities (a product of the *Ayers* case and final settlement), the primary goal of the workshop was to collect information from the various institutions about how to make developmental education more effective. This was especially intriguing as the various institutions represented had significantly different ideas regarding how to ensure student success and retention. Listening to various groups report their brainstorming sessions was enlightening—especially when suggestions from each group regarding increased success for this student demographic varied from implementing additional standards to surrounding developmental students with “a culture of love.” Interestingly enough, the one common theme reported by the various groups of faculty and staff represented involved the desire for more freedom to address the needs of their individual student populations with programs that may or may not comply with IHL guidelines for developmental education. Faculty at each of these institutions clearly felt

unable to provide adequate support for students enrolled in their basic writing programs due to the top-down requirements imposed by the *Ayers* settlement.

It became clear to me in my role as the Basic Writing Coordinator, and later when I agreed to serve as the Acting Director of Composition, that further exploration was needed regarding my adopted state's complicated history of race relations and the effect of this history on developmental writers and "remedial" coursework. The issue of race has been at the center of many discussions regarding basic writing, but in Mississippi race and basic writing are in some ways connected via legislation. Of course race and socioeconomic status are at the heart of the discriminatory practices of education being discussed in this project, but what are the state legislative policies involved in these issues and how have they been implemented? How does the legal discourse that led to and comprises these acts affect our perceptions of the legal decisions themselves? And, finally, in what ways do these legal mandates and our perceptions and lack of understanding (if not willful misunderstandings) of them influence basic writing programming and students identified as basic writers? My larger goal for this project is to begin answering these questions by examining the judicial opinions proffered through the lengthy *Ayers v. Fordice* case using critical discourse analysis. Such an analysis will allow me to illustrate the effects of legal discourse on basic writing programming at my institution, as well as provide a framework for understanding the significance of legal discourse to our efforts to rethink basic writing within our discipline.

Ayers v. Fordice: A Case Study

In order to begin exploring these issues, I begin with as brief an overview of this case as I can provide, given its long and complex history.¹⁷ In 1974, Mississippi's IHL Board of Trustees adopted a Plan of Compliance promoting further racial integration and

equality among its public, higher education institutions. The Plan of Compliance, written in response to the U.S. Department of Health, Education, and Welfare's (HEW) request for a desegregation plan, expressed the state's objectives to improve educational opportunities for all citizens, specifically in the areas of access and retention. This Plan was rejected by HEW, but the IHL decided to implement the rejected Plan nonetheless. This decision precipitated *Ayers v. Fordice*.

Plaintiffs in the case asserted that since the Supreme Court decision, *Brown v. Board of Education*, higher education institutions designed to serve black student populations were "markedly inferior" to institutions designed to serve whites (*Ayers v. Allain* GC75-9-NB n. pag.). The plaintiffs argued that a racially dual system of education was perpetuated via discriminatory admissions policies and hiring of faculty and staff, the operation of historically white institutions in close proximity to historically black institutions, and unequal distribution of financial resources, mission opportunities, and academic programming. The defendants, however, claimed that good faith, nondiscriminatory and nonracial policies had been implemented in respect to each of the plaintiffs' allegations and that where students chose to attend college was, in the end, a personal choice.

On September 17, 1975 a three judge panel was convened to preside over attempts at consensual resolution, and a plaintiff class was certified and defined as:

All black citizens residing in Mississippi, whether students, former students, parents, employees, or taxpayers, who have been, are or will be discriminated against on account of race in receiving equal educational opportunity and/or equal employment opportunities in the universities operated by said Board of Trustees. (*Ayers v. Allain* GC75-9-NB n. pag.)

For over a decade, there were unsuccessful attempts at settlement. Finally, on April 27, 1987, a trial commenced in the United States District Court for the Northern District of Mississippi. On December 10, 1987, District Judge Neal Biggers dismissed the case, finding and ruling that the state had lived up to its responsibilities in good faith. The case went to the United States Court of Appeals for the Fifth Circuit where it was reversed and remanded with one dissenting opinion on February 6, 1990. On rehearing *en banc*,¹⁸ the Court of Appeals vacated the panel opinion and reinstated the District Court's findings and conclusions. The U.S. Supreme Court granted *certiorari*¹⁹ in 1991, and it reversed and remanded to the District Court in 1992 finding four aspects of Mississippi's higher education system as constitutionally suspect. In addition, the Supreme Court ruled that the District Court did not apply the correct legal standard in its rulings and that the "correct inquiry asks whether existing racial identifiability is attributable to the state...and examines a wide range of factors to determine whether the state has perpetuated its former segregation in any facet of its system" (*Ayers v. Fordice* 90-1205 n. pag.).

Justice White delivered the opinion of the U.S. Supreme Court, ruling that Mississippi's adoption and implementation of "race-neutral" policies did not prove it had abandoned the formerly racially-dual system of education and that in order to dismantle this system the state must "take the necessary steps to ensure that this choice [of which college to attend] now is truly free" (*Ayers v. Fordice* 90-1205 n. pag.). Justice O'Connor and Justice Thomas filed concurring opinions, and Justice Scalia filed concurring in part and dissenting in part. Once again, under the auspices of Judge Biggers, the defendants proposed modifications in light of the Supreme Court's order in 1992. After two years of fruitless negotiations, another trial was set for May 1994. The

state was ordered on March 7, 1995 by the District Court to implement various policies and procedures in light of the Supreme Court ruling and in an attempt to reach a final settlement regarding the specifics of the complaint.

Considering the Supreme Court's guidelines, Biggers held that the following policies and practices were remnants of *de jure* segregation: undergraduate admissions policies and practices, the state-designated missions of individual institutions, funding policies, participation in various athletic conferences, duplicative offerings between proximate institutions, operations of two racially identifiable land grant institutions, and operation of eight universities, all of which were to some degree racially identifiable. Briefly stated, Biggers' response to these remaining elements of segregation involved the following: the adoption of system-wide admission standards, a required Summer Developmental Program as the primary remedial measure for students ineligible for traditional admission, suggestions for improvement of the state's historically black colleges and universities, a declaration of intent not to merge institutions at the present time, and the adoption of a monitoring committee for further review of state compliance.

The plaintiffs appealed, and in April 1997 the District Court's findings were affirmed in part, reversed in part, and remanded. Most importantly for the purposes of this project, the Court of Appeals did not affirm the Summer Developmental Program as the primary means of remediation for ineligible students and the possible "elimination of the remedial courses previously offered at each of the eight universities" (*Ayers v. Fordice* 95-60431 n. pag.). The Appeals Court also addressed issues pertaining to the use of ACT scores to award scholarships, funding, monitoring, and clarity in regards to the status of Mississippi Valley State University. A settlement was finally reached between the parties and approved on March 29, 2001.²⁰

If nothing else, this brief history outlines the lengthy legal battle involved in the *Ayers* suit and settlement. The longevity and genealogy of the case is further emphasized by Judge Biggers in his memorandum opinion and remedial decree that led to the final IHL agreement regarding access and instruction at the state universities. Biggers opens with the following quote from Charles Dickens' *Bleak House*:

Jarndyce and Jarndyce drones on. The ... suit has, in course of time, become so complicated, that no man alive knows what it means. The parties to it understand it least; but it has been observed that no two lawyers can talk about it for five minutes without coming to a total disagreement as to all the premises. Innumerable children have been born into it; innumerable old people have died out of it. Scores of persons have found themselves made parties in Jarndyce without knowing how or why. The little plaintiff or defendant who was promised a new rocking-horse when Jarndyce should be settled, has grown up, possessed himself of a real horse, and trotted away into another world. Fair wards of court have faded into mothers and grandmothers; a long procession of judges has come in and gone out; thirty to forty counsel have been known to appear at one time; costs have been incurred to the amount of many thousands of pounds; there are not three Jarndyces left upon the face of the earth perhaps, but *Jarndyce and Jarndyce* still drags its dreary length before the court.... (as quoted in Judge Biggers' 1995 decision)²¹

It is certainly no coincidence that Biggers' chosen epigraph is from a Dickens novel that critiqued the British judicial system and that literary and historical scholars suggest eventually spurred legal reform. The similarities between Dickens' fictional case of

Jarndyce and the very real case of *Ayers* are obvious to those familiar with the lengthy *Ayers* case: the drawn-out, “dreary,” lengthy process of the suit, the lack of public understanding and “total disagreement as to all the premises” that show themselves in the *Ayers* case, the considerable amount of money spent trying the case, and the effects of the case on the “children” who will inherit Mississippi’s college systems. Indeed, Biggers begins his statement by claiming that while the parallels between the two cases are not relevant in his statement, similarities worth exploring do exist, and they are “better left for the reader who might so choose to draw for himself from the novel describing *Jarndyce*, cited above, and the opinions chronicling *Fordice*, cited below” (*Ayers v. Fordice* 4:75CV009-B-O n. pag.). His somewhat sarcastic suggestion that exploring these similarities can no longer be his responsibility but is the responsibility of the public provides a background for my reading of the judicial opinions that constitute *Ayers v. Fordice* because true educational reform requires examination of the legal discourse that leads to institutional policies such as those dictated by *Ayers*.

The Function and Ideology of Judicial Opinions

In *Political Literacy: Rhetoric, Ideology, and the Possibility of Justice*, Fredric Gale argues for changes in the ways the public is educated about politics and individual and social rights. Gale claims that citizens must be educated in the inherently rhetorical nature of language in order to understand and interpret the laws that govern our society. In what is a revealing look at the political and ideological nature of judicial opinions, Gale successfully argues that citizens enjoy individual and social justice in direct proportion to their ability to pursue and comprehend the rhetorical elements of judicial writing. And while Gale’s work primarily involves what he terms the “rhetoric of justification,” or the discourse used to explain judges’ decisions regarding their rulings,

his emphasis on the need for political literacy is an interesting point at which to begin this project. Gale argues that society's willingness to adhere to cultural literacy dictated by a "ruling class" as opposed to critical literacy is what allows dominant ideologies to remain in existence (4). For Gale, as for most scholars who propose a rhetorical approach to law, judicial language (as all language construction) is always already ideological and, therefore, incapable of representing complete objectivity and impartiality (4). This recognition of law as a rhetoric has led to increased attention to the role such language plays in the shaping of our lives—our legal rights, responsibilities, and limitations.

Indeed, a rhetorical approach to the law—judicial opinions specifically—encourages analytical methods of interpreting the law as opposed to reliance on traditional jurisprudential reasoning involving intention, precedent, and literal meaning. Such an approach treats the genre of judicial opinions as more than statements regarding the outcomes of an individual case. As pointed out by Glenda Conway, the sheer length of most judicial opinions sustains such a claim. Indeed, most judicial opinions are at least twenty pages in length, and many opinions are likely to consist of fifty or more pages (46).²² And while the content of various opinions may differ, the purpose and format is relatively consistent. According to Ruggero Aldisert, a judicial opinion is "defined as a reasoned elaboration, publicly stated, that justifies a conclusion or decision. Its purpose is to set forth an explanation for a decision that adjudicates a live case or a controversy that has been presented before a court," and "the quality of a decision is commensurate with the quality and logical force of the reasons that support it" (12). In other words, the judicial opinion functions as a medium for judges to present a detailed history and justification of their rulings. It is a text in which judges explain the questions

involved in a case and how and why they are resolving them in the manner posited by their final rulings.²³

In *Justice as Translation*, James Boyd White suggests that successful analysis of judicial opinions requires the public to ask the following questions regarding the opinion at stake:

How does it define the constitution it is interpreting; the process of constitutional interpretation in which it is engaged; the meaning of the particular provision at issue; the place and character of the individual citizen in our country, and that of the judge, the law, and the lawyer?

What conversation does it establish, in what relation to “democracy?”

What community does it call into being, constituting what practices and enacting what values? (141)

White is, in essence, viewing the judicial opinion as a narrative capable of both judicial self-definition (establishing the ethos of the judge writing the document) and composition of the socio-political subjects involved (members of the public who play a role in the case or are affected by its outcomes). This is to say, it is simultaneously a cultural and rhetorical text. From White’s perspective, all judicial opinions are “interpretive and compositional” (91). His insistence that judicial opinions are central texts in the making of the law—as opposed to mere justifications of legal decisions—and that through such texts, “legal power is exercised before our eyes” is a powerful one (xv). Indeed, according to White, the judicial opinion is “the representative legal text, the document that catches and freezes for a moment the legal mind at work” (90). From White’s perspective, the judicial opinion functions not only to provide the public with written documentation regarding why judges ruled one way or another, but also as a means of

establishing an individual judge's credibility and authority in any given legal situation. White discusses judicial self-definition and points out how important the judicial opinion is in a judge's attempt to establish himself and his role as a judge. He suggests we view the judicial opinion as "an ethical and political act—as a way of defining the judge himself, the court of which he is a part, the constitution upon which his power depends, and the conversation that is the law" (*Justice* 112). Individual judges utilize this medium as a means of establishing their own ethos and appealing to the reader's sense of emotion and logic simultaneously. Unlike the actual decision, finite and static, a judicial opinion allows a glimpse into the judge's personal opinion regarding the logistics and legalities of the case discussed. However, not only are these legal texts capable of recognizing and enacting the identity of the respective judge, but they also serve to define the various participants in the case, the public community that will be affected by the final rulings, and the relationship between each.²⁴ Judicial opinions, therefore, provide a rationale and background regarding how power is executed in the American legal system.

The legal discourse of judicial opinions, then, creates cultural and rhetorical texts pertinent to our understandings of power relations, social construction, and justice.

Indeed, Conley and O'Barr argue the following:

focusing simultaneously on law, language, and power can give us a new insight into what has been the fundamental question in American legal history: how a legal system that aspires to equality can produce such a pervasive sense of unfair treatment...If the law is failing to live up to its ideals, the failure must lie in the details of everyday legal practice—details that consist almost entirely of language. (*Just Words* 2-3)

The linguistic details to which Conley and O'Barr refer represent the metatext of local governance; they are what allow us to analyze the ways abstract social concepts, such as justice, are carried out at a local level. It seems fairly obvious, then, that in-depth, textual analyses of legal discourse will lead to more complete understandings of the role legal language plays in constructing all aspects of society, including the composition classroom. This is to say, inquiries regarding legal discourse—how it is used, perceived, discussed, and responded to—are necessary to understand how such language creates the social power dynamics that permeate and construct basic writing programming and the basic writing classroom. In the case this project examines, the language of the court (trial language, individual testimonies, expert testimonies, judicial opinions, written appeals, and, finally, laws themselves) filters to a state governing agency, then to individual higher education institutions. By the time it reaches the institutional level, the language has changed—only in the university legal department is it clearly in its original form. From there it eventually trickles through administrators, to departments, and then it somewhat silently—but still quite adamantly—makes its way into our classrooms. This probably is not very surprising to most; perhaps it is even fairly obvious, but my own experiences with the *Ayers* case suggest it is the norm.

Several closely related forms of discourse analysis have surfaced that encourage scholars to consider the intersections between discourse and the social implications of documents such as judicial opinions. Methodologies such as rhetorical analysis, cultural studies, critical discourse analysis, and social linguistics share notable commonalities that make them each suitable for analyzing judicial opinions and their impacts on American power structures and culture. For scholars engaging in such research, discourse is a locus of power, as it represents not only language as words, as text, but language in the social

sense of how language is structured, utilized, and talked and written about. Given such a wide array of similar yet distinct methodologies, some may question how best to read and analyze legal documents, and as mentioned above there is a long tradition of how to do so in the fields of rhetoric and composition studies and literary studies. The kinds of close textual readings I intend to conduct are different than the rhetorical analyses suggested by the legal scholars noted earlier in this chapter. In the section that follows, I will explain why critical discourse analysis is the most effective approach to deconstructing the judicial opinions of the *Ayers v. Fordice* case based on the rhetorical nature of legal texts in general and the priorities of composition studies today.

Critical Discourse Analysis: An Overview

Critical discourse analysis is an academic movement that bridges the gap between social structures and rhetorical moves made in various public texts.²⁵ A context-sensitive form of discourse analysis, critical discourse analysis insists that close readings of texts “be done in conjunction with a broader contextual analysis, including a consideration of discursive practices, intertextual relations, and sociocultural factors” (Huckin “Critical” 157). As argued by Thomas Huckin, “the main purpose of critical discourse analysis is to show how public discourse often serves the interests of powerful forces over those of the less privileged” (159). Norman Fairclough and Ruth Wodak provide a definition of critical discourse analysis that serves as a useful starting point for my project:

CDA sees discourse—language use in speech and writing—as a form of “social practice.” Describing discourse as a social practice implies a dialectical relationship between a particular discursive event and the situation(s), institution(s), and social structure(s), which frame it: The discursive event is shaped by them, but it also shapes them. That is,

discourse is also socially constitutive as well as socially conditioned—it constitutes situations, objects of knowledge, and the social identities of and relationships between people and groups of people. It is constitutive both in the sense that it helps to sustain and reproduce the social status quo, and in the sense that it contributes to reforming it. Since discourse is so socially consequential, it gives rise to important issues of power. Discursive practices may have major ideological effects—that is, they can help produce and reproduce unequal power relations between (for instance) social classes, women and men, and ethnic/cultural majorities and minorities through the ways in which they represent things and position people. (Fairclough and Wodak 258)

Fairclough and Wodak's stress on the dialectical relationship between discourse and social structures provides a revealing view of the ways critical discourse analysts view discursive practices. Indeed, no other approach to textual analysis allows for a research agenda that includes the social, the contextual, and textual details in its attempts to show the ways social and political inconsistencies are reconstructed in texts. As pointed out by Wodak and Michael Meyer, critical discourse analysis, with its emphasis on ideology and textual performance, is not necessarily interested in "investigating a linguistic unit per se but in studying social phenomena which are necessarily complex and thus require a multidisciplinary and multi-methodical approach" (*Methods* 2).

According to Teun van Dijk, advocates of critical discourse analysis agree that it is not a research methodology but rather a "socially critical attitude of doing discourse studies" (n. pag.). Methods utilized by critical discourse analysts in the humanities and social sciences incorporate both qualitative and quantitative methods of research

including, but certainly not limited to, formal studies of syntax, word, sentence, and text-level analysis, and studies of narrative structure, argumentative structure, and rhetorical strategies. Ellen Barton and Gail Stygall argue that critical discourse studies provides compositionists a theory of language in use and various methodologies to “formulate and test insights about social interaction and structural analysis” (9). Barton claims that the status of critical discourse analysis as a cross-discipline of sorts as opposed to a strict and discipline-specific research methodology is part of what leads to some scholars’ suspicions regarding the efficacy of the approach. She also argues, however, that the combined qualitative and quantitative characteristics of these methodologies are what provide a more rich and reflective reading of texts that ensures linguistic integrity and contextual value.²⁶

As mentioned previously, critical discourse analysts are at liberty to utilize any number of research methodologies in their attempts to uncover the relationships between social construction and texts—in the case of this project, legal texts specifically. Previous works in legal discourse analysis have established the validity of these methods in uncovering the various means by which legal texts influence and enact social construction.²⁷ Studies involving narrative, talk and silence, voice, and translation in the metatexts of legal discourse have established various ways scholars can systematically explain the cultural and political relevance of discourse in various legal texts. It is my intention to contribute to these efforts through an investigation of the judicial documents in the *Ayers v. Fordice* case utilizing a similarly critical approach. The remainder of this chapter serves to begin to articulate the discourse theory and method utilized in this study.²⁸

Critical Discourse Analysis: Metaphorical and Literal Enactments

Fairclough and Wodak argue that there are three primary areas of social life that are discursively constituted: “representations of the world, social relations between people, and people’s social and personal identities” (273). The theory that any text functions simultaneously to “constitute representations, relations, and identities” allows us to analyze how even individual clauses—the smallest details in a sentence—function ideationally, interpersonally, and textually (275). They go on to argue the following:

We can only make sense of the salience of discourse in contemporary social processes and power relations by recognizing that discourse constitutes society and culture, as well as being constituted by them. Their relationship, that is, is a dialectical one. This entails that every instance of language use makes its own small contribution to reproducing and/or transforming society and culture, including power relations. That is the power of discourse; that is why it is worth struggling over. (273)

The dialectical relationship between discourse and culture is significant in its ability to maintain or challenge hegemonic ideals. The idea that ordinary language in the most ordinary of rhetorical situations is capable of either reproducing or transforming society reminds us, once again, of the power of discourse and our responsibility as compositionists to examine the ways discourse determines our social labels as well as those of our students.

James Paul Gee also assumes this particular theory of discourse in *Social Linguistics and Literacies*; for Gee, Discourses are “matters of enactment and recognition” (156).²⁹ Social theories of Discourse, he claims, rely on specific manners of reading/writing coupled with specific social characteristics in order “to enact specific

socially recognizable identities engaged in specific socially recognizable activities” (155). In his textbook regarding discourse analysis, Gee asserts that “speakers and writers use the resources of grammar to design their sentences and texts in ways that communicate their perspectives on reality, carry out various social activities, and allow them to enact different social identities. We are all designers—artists, in a sense—in this respect. Our medium is language” (*Introduction* 5).

The similarities in the theories of discourse summarized above are obvious; the scholars’ own articulations of their methods, however, are distinct in their verb choice. Fairclough and Wodak utilize the verb “constitute” throughout their explanations, while Gee’s work repeatedly employs the term “enact.” This distinction is important: the term “enact” relays a sense of intent and performance on the part of the persons involved. Ideologically speaking, if we believe discourse to be capable of doing ideological work, that is representing and constructing society in ways that inform power relations, the term “enact” carries a much stronger and ideologically informative connotation. In my readings of judicial opinions, I will rely on this theory of discourse as an integral component of *enacting* the individual and group identities of basic writers.

When I originally approached this project, I felt confident that close readings of the judicial opinions of the *Ayers* case would reveal inconsistencies between the legal decisions of the case and the ways the discourse comprising these decisions label basic writers, as well as examples of how institutional and student subject positions are enacted and limited by such discourse on a daily basis. Following Huckin’s seminal methodological discussion outlining context-sensitive text analysis—an early description of discourse analysis that is still valuable today—I selected my initial corpus of texts: all judicial opinions associated with the *Ayers* case. Huckins’ outline of procedural steps

for such research involves selecting an initial corpus of texts potentially interesting to the field of composition; reading those texts holistically in order to identify salient patterns of interest; questioning the “interestingness” of developing patterns; selecting a study corpus in order to verify the patterns; and conducting functional-rhetorical analysis as a means of interpreting the results of the study (“Context-Sensitive” 90-93). Having selected my initial texts, I began reading these opinions with an eye for language that conflicted with the final outcomes of the *Ayers* case. This is to say, the stated outcomes of the *Ayers* case purportedly involved additional access and educational opportunities for minority students. Based on my knowledge of the historical, cultural, and political issues associated with education in Mississippi, I wanted to know if the judicial opinions associated with this case were at odds with the outcomes. My initial readings confirmed my “hunches” regarding the disparate nature of these judicial opinions when compared to the final decisions, but I also quickly became intrigued by the prevalence of metaphors in the various judges’ opinions.

My interest in these metaphors led me to recent research by cognitive linguists regarding conceptual metaphor theory. Such theorists argue that language not only makes possible certain ways of being and thinking, but also enacts power structures by “*unconsciously* shaping discourses and culture” (Eubanks “Corporate Rule” 237, emphasis in original). Since the publication of George Lakoff and Mark Johnson’s *Metaphors We Live By*, “conceptual metaphor theory has provided overwhelming evidence that every day language so routinely incorporates metaphors that we cannot explain how we think without taking into account the metaphors we think with” (Eubanks “Corporate Rule” 237). According to Lakoff and Johnson, “the essence of metaphor is understanding and experiencing one kind of thing in terms of another”; and metaphors as

linguistic expressions exist, they assert, because there are metaphors in a person's conceptual system, their very thought processes (5). This argument—that all linguistic expressions are rooted in cognitive, metaphorical mappings based on our perceptions of ourselves and our world—challenged me to reconsider the ways in which I was approaching the situational discourses connected to this lawsuit. I was confident that further exploration of the metaphorical patterns repeated in the opinions of the *Ayers* case would be useful in deepening my understanding of basic writing programming.

As mentioned in the introductory chapter to this project, basic writing programming tends to be labeled from two distinct and divergent perspectives: such programs are either considered transformative in their goals of providing access to higher education institutions for students who for any number of reasons are considered underprepared for college level work; or, these programs are considered damaging to institutions and, consequently academic culture, as a result of a misinformed perception of the lowering of academic standards. Each of these viewpoints is consistent with the constant ideological warfare between liberal and conservative educators regarding the relationship between the academic institution and the community it serves. Indeed, as I will illustrate in the next chapter, both liberal and conservative worldviews are clearly articulated through the metaphorical language always present in the discourse of education. The rhetoric of progressive educators tends to highlight access, service, nurture, and relationships; whereas conservative rhetoric often emphasizes accountability, standards, economics, and the individual.³⁰

In the next chapter, I will return to Lakoff and Johnson's theories of conceptual metaphor as well as Lakoff's articulations of conservative versus liberal metaphors and examine how they are enacted in judicial documents and, consequently, in the classroom.

Little critical attention has been paid to the origins of such metaphorical language use in the fields of law and composition. This project argues that in order to comprehend the ways the subject positions of basic writers are predefined, we must critically analyze the legal and public discourse that leads to institutional policies regarding basic writers, as well as the community's responses to such policies. In other words, the discourse of judicial opinions has the power to enact specific, individual subject positions of students in our classrooms, and this power often is enacted through metaphor. The goal of this analysis is to point out how conservative and liberal ideas regarding remedial education get performed on a syntactic level. In addition, because the assumed objectivity and balance of the law is a belief that, as Americans, we all share, it is our responsibility to consider how the very laws governing our communities are presented in a discourse replete with metaphors that, once examined, are most clearly laden with subjective language. Such an examination will lead to an understanding of how students come to rely on and be limited by these same metaphors in programmatic and classroom settings.

CHAPTER III

AYERS V. FORDICE: A CASE STUDY IN CONCEPTUAL METAPHORS

Mayor Tilman: Fact is, we got two cultures down here: a white culture, and a colored culture. Now, that's the way it always has been, and that's the way it always will be.

Anderson: Rest of America don't see it that way, Mr. Mayor.

Sherriff Ray Stuckey: Rest of America don't mean jack shit. You in Mississippi now.

Mississippi Burning (1988)³¹

[Mississippi's] admissions requirements even for full regular admission are quite moderate. As one witness testified, with such moderate admissions requirements, it might well develop that in the future in some states such as California, where approximately only one out of ten applicants is admitted to the state university system because of the competitive admissions requirements, students will hear about a state with moderate admissions requirements, a clean environment, relatively low crime rates, and college campuses where as many as 90% of the students are attending on federal Pell Grants, and there will be a mass migration to that state.

Judge Neal Biggers (1995 District Court Opinion)³²

In previous chapters, I have established the significance of legal discourse to power relationships, the effectiveness of critical discourse analysis in the examination such discourse, and the ways social and cognitive linguistics can illuminate our understandings of the complex relationship between law, language, and power. Now, I will focus on examining the linguistic and cultural significance of conceptual metaphor

theory—a theory that has become central to cognitive scientists’ arguments regarding how humans think, articulate their thoughts, and act. As mentioned previously, the publication of Lakoff and Johnson’s *Metaphors We Live By* significantly altered our understanding of metaphor. Their initial research has led to plentiful evidence that conceptual metaphors are not merely a matter of language or linguistic expressions. Rather, these expressions are possible because they are part of a person’s conceptual system. Lakoff and Johnson argue that “human thought processes are largely metaphorical” and that metaphorical expressions, then, are physically and culturally inscribed concepts that dictate how we experience and articulate the world around us because they are located in a person’s conceptual system (6).

The most commonly cited example of the ways in which conceptual metaphors structure our thoughts and actions is the concept of Argument as War.³³ Lakoff and Johnson explain that “ARGUMENT is partially structured, understood, performed, and talked about in terms of WAR. The concept is metaphorically structured, the activity is metaphorically structured, and, consequently, the language is metaphorically structured” (Lakoff and Johnson 5, emphasis in original). The authors point out that when we “defend” our ideas, “attack” a position, or “gain ground” in an argument, we are not just talking about argument in terms of war, and we are not devising and considering these articulations anew each time we utilize them. Rather, we are simply voicing our cultural concept of argument as a war, and, in essence, we are living according to this concept. We actually can win or lose an argument, and many of our actions are based on this concept—not just our words. We “defend,” “attack,” and “counterattack.” There is not a literal battle that will result in physical death, but we can “demolish our opponent.” In addition, our belief that Argument is War is the *ordinary* way for us to view argument. It

merely requires that we be able to visualize the similarities between the two conceptual domains: opposing sides, offence and defense, winning strategies, and the goal of defeating one's opponent (Lakoff and Johnson 3-6).

Lakoff and Johnson point out that while there are other ways to conceptualize argument, such conceptualizations are unlikely to be recognized as argument because Argument as War is our culturally inscribed way of interpreting what it means to argue. For example, we might conceptualize argument as a dance, one in which the participants are performers engaged in a choreographed routine designed to achieve balance and duality; this, however, is not the ordinary way for our culture to view argument. Therefore, according to Lakoff and Johnson, if we encountered two people having a conversation utilizing the concept of Argument as Dance, we would not even recognize their actions as characteristic of what we consider to be argument. In addition, Argument as War is so entrenched in our cultural mindset that the cultural metaphor itself does not even have to be explicitly stated in order for us to comprehend and process it. This same theory holds true for other conceptual metaphors that Lakoff and Johnson cite, such as: "Time is Money," "Happy is Up," "Love is a Journey," and "Ideas are Food."³⁴

Superficially, conceptual metaphors appear to be simple; in fact, they are very complex. Not only are conceptual metaphors pervasive and multitudinous, but they have a basis in our physical and cultural experience that ultimately results in metaphorical layers that allow us to experience, interpret, and articulate abstract ideas. These metaphorical layers are a result of conceptual metaphors operating simultaneously with other conceptual metaphors; they entail each other, "creating a coherent system of metaphorical concepts and a corresponding coherent system of metaphorical expressions for those concepts" (Lakoff and Johnson 9). In addition, it is impossible for us to know

which features of these conceptual metaphors will function as coherent, complementary, or contradictory,

unless we know the circumstances in which the metaphor is uttered—by whom and to whom. No matter how we may insist on the fiction of an isolable metaphoric expression, no metaphor can be separated from its discursive milieu. It is impossible for a metaphor to be uttered except by a concrete, historically situated speaker. Thus every metaphor is inflected by a range of discursive forces: politics, philosophy, economics, social class, professional concerns, individual goals, and so on. (Eubanks “Conceptual Metaphor” 175)

This is to say, analysis of the contextual situations and speakers involved is as important as the identification of the conceptual metaphors that permeate any given text. The purpose, then, of utilizing critical discourse analysis to examine the conceptual metaphors involved in the legal reasoning of and responses to *Ayers v. Fordice* is that such a method allows us to explore the specific conceptual metaphors evident in legal and public discourse alongside these various discursive forces. Such contextualization enables us to understand how specific conceptual metaphors can be utilized to forward very different priorities; however, one of those priorities is the one that is consistently recognized and invoked.

Such an examination requires an understanding of how we conceptualize justice, education, and remediation in America today. In short, we must identify the conceptual metaphors at play in numerous discourses: those of education, of higher education, of institutional policies, of legal discourse, and of justice.³⁵ It is, therefore, helpful that some of the most promising new applications of conceptual metaphor theory are in the

field of law.³⁶ While the majority of scholarship on metaphor and law adheres to an Aristotelian view of metaphor as merely a two-part expression, legal theorist Steven Winter writes extensively about the centrality of conceptual metaphors to legal reasoning.³⁷ In *A Clearing in the Forest*, Winter argues that no human phenomenon, including law, can be comprehended without an understanding of imagination and the cognitively entrenched role it plays between humans and their environment. For Winter, “cognitive theory transforms everything that depends on categories—including phenomena as prosaic as rules and as obscure as ‘judgment’” (7). Beginning with the role of narrative in law, Winter examines the ways conceptual metaphor theory (specifically Lakoff’s Idealized Cognitive Model) informs both our understandings of the law as a constraint and contemporary legal scholarship and theory. In his examination of conceptual metaphors and law, Winter cogently argues the following:

the exegesis of the metaphorical structure of [a written excerpt of any type] might be of little more than literary interest except for two facts. First, each and every one of these expressions and the accompanying patterns of inference are the product of a more general, conceptual metaphor. Second, these conceptual metaphors are neither arbitrary nor mere products of chance and history, but are grounded in our most basic embodied experience. (15)

This is to say, our basic ability to comprehend and react to laws and the social implications of laws are dependent on structures of bodily experience. Our ability to make sense of our society (and our role in that society) is related to the image-schemas of conceptual mappings that allow us to interpret our various social interactions. Winter argues that legal decisionmakers employ conceptual metaphors “automatically and

unreflectively” in their judicial decisions in part because the narratives of judicial opinion are socially enmeshed and, therefore, highly structured and regular (144). His argument provides a basis for rethinking the ways we interpret legal discourse.

This chapter will involve the analysis of the legal opinions that led to the Mississippi’s Institutions of Higher Learning’s ruling regarding *Ayers v. Fordice* in an attempt to understand how a “commitment to diversity” could result in the labeling of the very students we are supposed to serve and protect.³⁸ I intend to explore how *Ayers v. Fordice* legislates composition in the name of racial politics, places institutional rights and reputations above students’ needs, and implements additional bureaucratic mandates and standards that restrict the abilities of composition teachers to respond to classroom needs appropriately. To this end, I will consider the various conceptual metaphors evident in these legal texts as well as how they might complicate our understandings of the educational policies that derive from *Ayers v. Fordice* and help further our understandings of the relationship between conceptual metaphors and the subject positions of basic writers.

My analysis of the judicial opinions that comprise the lengthy *Ayers* case includes opinions from the United States District Court for the Northern District of Mississippi, the United States Court of Appeals Fifth Circuit, and the U.S. Supreme Court. I begin by analyzing an early court opinion in which the suit was remanded to the District Court after being summarily dismissed, analyze it for typical conceptual metaphorical mappings and structures, and then turn to the proceeding opinions. I will then consider the role of the metaphorical language in these particular judicial opinions and how it both constructs limiting narratives of educational opportunity and enacts competing and socially-privileged identities for basic writing programming and basic writers.

Law as Looking Glass

I begin with the Law as Looking Glass metaphor, not because it is the most prominent or most powerful of the conceptual metaphors this project will discuss, but because it is literally the first metaphor encountered by the reader in reading Judge Goldberg's epigraph to his opinion on behalf of the U.S. Court of Appeals, Fifth Circuit when the court reversed and remanded the District Court's original dismissal of the *Ayers* case. The Court of Appeals "held that continued racial identification of the state's public universities violated equal protection and Title VI of the Civil Rights Act of 1964" (West Law summary n. pag.). Filed February 6, 1990, this particular set of opinions contains explicit metaphorical constructions that are then utilized and reframed in each of the proceeding judicial opinions that led up to the final settlement of the case.

"The time has come," the Walrus said, "To talk of many things:
Of shoes—and ships—and sealing wax—Of Cabbages—and kings—
And why the sea is boiling hot—and whether pigs have wings."

Lewis Carroll, *Through the Looking Glass and What Alice Found There*
(1872)

We'll sit and chat of times gone by, and visit with the queens.

Brown, and, *Sweatt* and *Meredith* not to mention the fertile *Green*

And then we'll see why *Ayers* should fly and how equality is king! (*Ayers*
v. Allain, 88-4104 n. pag.)

Certainly judges have a long history of using literary references as epigraphs in their written opinions, but Carroll's *Alice and Wonderland* and its sequel, *Through the Looking Glass*, have an especially interesting history in the writings of judges, due primarily to Humpty Dumpty's famous statement that when he uses a word he means it exactly as he

states it.³⁹ Indeed, the Comparative Law Blog cites Carroll's works as the most widely cited children's texts in all legal literature (2006). And while Goldberg's artful prose and rewording of the Walrus' rhyme is both humorous and informative in its referencing of legal precedents, a closer reading of the text in its entirety reveals explicit references to the conceptual metaphor of Law as Looking Glass that hold significantly more meaning than simply a literary allusion.

Indeed, this metaphor becomes significant to our understandings of this case when, after presenting the factual information section of the court's opinion, Goldberg begins the opinion and discussion section by analyzing the cases mentioned in the rhyme of his epigraph and claiming, "these cases demonstrate that *law should be society's mirror casting reflections* of individual dignity upon all" (*Ayers v. Allain*, 88-4104 n. pag.).⁴⁰ In this context, the looking glass adheres to our cultural understandings of mirror metaphors as always self-reflective. In such a metaphorical context, the Law is *reflective*; it is *objective* in its *imaging*; it is representative and reflective of *light*; it considers cases *in light of* context and previous rulings; it *truthfully represents the object* before it; it is *exact—a mirror image*. Consider the phrase "*mirror* into a person's soul" and its suggestion that mirrors provide a closer and more accurate look at all things. Such examples allude to our cognitively entrenched belief that mirrors provide exact reflections. In addition, when we apply our culturally conceived notion of Mirrors as Truth in regards to the law, we automatically recruit the conceptual metaphor Law as Truth.⁴¹ Winter alludes to this metaphoric scheme when he argues that "the most powerful determinants of law are embodied in the social interactions and practices that give rise to one's senses of order and cultural truth" (343). In other words, our willingness as a society to conceptualize law as truth is part of what enables law to

function and govern in our society. We trust and believe in the “letters of the law.” We solemnly swear to tell “the truth, the whole truth, and nothing but the truth” in a court of law. The combining of these two complementary metaphors allows for our conceptualization of Law as Looking Glass. The conceptual metaphor Law as Looking Glass, therefore, entails that law, in the abstract sense of justice, should reflect a society’s beliefs and social mores in the same way that a looking glass reflects the object before it. In this sense, laws are always reflective of truth and justice.

This cultural understanding of mirror representations, however, conflicts with the concept of the distorted and image-altering looking glass of Lewis Carroll’s fantasy referenced by Goldberg. The looking glass in the story of Alice is not an object of self-reflection, but an object used to view others; and while these “others” are familiar and distinguishable in Carroll’s sequel to *Alice in Wonderland*, they are distorted. They are versions of themselves, but they are no longer recognizable as mirror images. From this perspective, the looking glass perverts the objects seen through it. Everything, even law, is reversed and perverted in Alice’s later version of wonderland. Suddenly we are faced with the looking glass as distortions of funhouse mirrors—not honest representations, but a world gone topsy-turvy.

Our reading of Goldberg’s opinion is altered by these conflicting versions of the looking glass—especially given the subject matter of the case, race. Does the law reflect our understandings of race and racism in America or does it distort them? Like Eubanks, I would argue that such “metaphors are not worth studying because of their novelty or singularity but rather because they are culturally entrenched and integrally involved with other metaphors and figures” (“Corporate Rule” 241). Mirror metaphors are obviously entrenched in American culture and language, but there is not enough research into how

these metaphorical utterances enact the identities and subject spaces of individuals—in this case minority students with a right to educational opportunities. A key passage from Goldberg’s opinion will serve as an example. In it, Goldberg cites legal precedent, the 1986 case, *Bazemore v. Friday*. In this case, the U.S. Supreme Court found that it held no jurisdiction in forcing North Carolina Agricultural Extension Services to disestablish segregation of its separate and racially identifiable 4-H and Future Homemakers clubs. The Court reasoned that club members had a choice as to which club they joined, and the state need only adopt non-discriminatory practices and race-neutral policies in order to be compliant. Goldberg writes:

Courts must not become anesthetized from *gazing too deeply* into what some believe is the *platonic vision* of *Bazemore*. *Bazemore’s vision* of a state government is one resurrected from a past marred by racial subjugation without the ashes of its fire-laden history to *gray the façade*. Unfortunately, this *vision* rests on the blithe assumption that the moral ambition of *Brown* has been conquered; an egalitarian society where the elixir is choice blended into a grog of neutral admission policies. The most abhorrent implication of the idea that the effects of segregation may vary with the admissions and attendance policies of an institution, however, is that black citizens are *demeaned with the quality of chameleons*. The color of their skin is presumed to change with the structure of an institution where they will *see the world as do whites*. (*Ayers v. Allain*, 88-4104 n. pag.)⁴²

This passage centers on a metaphoric scheme that casts the law as a mirror that certainly has the potential to distort and enact the subject positions of black Americans; in

addition, our ability to internalize and comprehend Goldberg's passage is based on the fact that the Law as Looking Glass metaphor is cognitively entrenched. This allows Goldberg to reason in the manner that he does, and it allows us to follow his reasoning. Therefore, Goldberg's admonishment that courts not "gaze too deeply" into the "platonic vision" of *Bazemore* argues against the conceptualization of law as reflective of truth and adheres to a version of the metaphor in which law is capable of distorting the truth. By suggesting that "*Bazemore*'s vision" is "marred by racial subjugation," Goldberg alludes to the distortive powers of legal decisions. In addition, his use of the phrase "platonic vision" suggests that there are multiple truths as opposed to Truth with a capital T—not one mirror image presented by the law.

The law in this passage represents the potential consequences of distorting and manipulating how we "see" minorities and how they "see" themselves. Even the phrase "demeaned with the quality of chameleons," takes on new meaning when we take into account the definition of the word "demean" as "to handle, manipulate, or manage."⁴³ An overreliance on race-neutral policies manipulates racial minorities and requires them to claim a specific racial persona. The law, then, has the ability to manipulate the way society perceives black Americans and their educational opportunities. Consider the implications of Goldberg's final sentence in this passage in regards to literacy and education. For while Goldberg is referring to worldviews, his claim that black students are manipulated into positions of chameleons could just as easily refer to the assimilation desired by historically white institutions in regards to the cultural literacies of black Americans. Goldberg is clearly attacking such a notion, but his rhetoric is ultimately unsuccessful as this is a case based on "standards" and a desire to erase racial identifiability of the state's public institutions.

Goldberg goes on to argue that “if a less demanding standard [than *Green*] were adopted, *images* of inferiority would be memorialized with the force of law” (*Ayers v. Allain*, 88-4104 n. pag.).⁴⁴ In this passage, he once again emphasizes the relationship between law and the images it creates, only this particular selection returns to the concept of mirror images as opposed to distorted images. He also argues that the words of the court “should serve to *illuminate* the road map that the district court must create to remedy the violation of the equal protection clause in this case” (*Ayers v. Allain*, 88-4104 n. pag.). This emphasis on how the language of judicial decisions can illuminate—cast light on—how the court should proceed in its dealings with the case also adheres to a view of Law as Looking Glass and truth. The relationship between legal discourse and images is coherent and consistent; however, the legal discourse he himself refers to is caught in a double bind. Perhaps the law *is* a looking glass; but whether it reflects or distorts ultimately depends on who is holding the mirror.

The Law as Looking Glass metaphor threads its way through the remaining judicial opinions of this case as well—including those of the U.S. Supreme Court. In his justification of the Court’s decision to remand *Ayers* to the lower court system, Justice White utilizes the idiomatic expression “in light of” six different times in the discussion section of the opinion alone. “In light of” is an idiomatic expression that I argue is based on the Law as Looking Glass metaphor. In *Metaphors We Live By*, Lakoff and Johnson argue that idioms themselves are inconsequential; rather, it is the “deep metaphor” that entails the expression that is culturally significant. They argue that “the idea that metaphors are nothing but linguistic expressions—a mere matter of words—is such a common fallacy that it has kept many readers from even entertaining the idea that we think metaphorically” (245). The connection between idiomatic expressions that involve

light and light sources and Law as Looking Glass are grounded in our understandings of mirrors as reflective devices. According to the *Oxford English Dictionary*, our associations of reflection and light probably result from “the sun and reflective surfaces such as mirrors being considered alike as immediate sources of light, without regard to whether that light is direct or reflected.”⁴⁵ Reflection then involves light both literally and figuratively in its ability to shine light upon a person or thing and to both stop the passage of and reflect rays of light. Consider the following passage in which commonplace idiomatic expressions are manipulated in a manner that corresponds with the idea of light as reflective of truth (as in a mirror):

In *highlighting*, as we do below, certain remnants of the prior system that are readily apparent from the findings of fact by the District Court and affirmed by the Court of Appeals, we by no means suggest that the Court of Appeals need not examine, *in light of the proper standard*, each of the other policies now governing the State’s university system that have been challenged or that are challenged on remand *in light of the standard* that we articulate today. (*Ayers v. Fordice* 90-1205 n. pag.)

In each of these instances, we are being asked to reflect upon specific readings and standards of the law. Adhering to the conceptual metaphor of Law as Looking Glass, Justice White essentially argues that an accurate reading of the legal precedents involved will shine a light on the future actions that need to be taken by the state of Mississippi. Interestingly enough, each time that White utilizes this expression, he does so in regards to standards—but not always standards of law. Consider for example the following passage: “The segregative effect of this automatic entrance standard is especially striking *in light of* the differences in minimum automatic entrance scores among the regional

universities in Mississippi's system" (*Ayers v. Fordice* 90-1205 n. pag.). White also claims that use of ACT scores alone to determine college eligibility is "irrational *in light of* most States' use of high school grades and other indicators" (*Ayers v. Fordice* 90-1205 n. pag.). In his discussion of the number of universities from which to choose in the state he argues that the large number of institutions in itself leads to different choices "particularly when examined *in the light of* other factors present in the operation of the system" (*Ayers v. Fordice* 90-1205 n. pag.) And finally, White closes his opinion by stating that, "because the District Court and the Court of Appeals failed to consider the State's duties *in their proper light*, the cases must be remanded" (*Ayers v. Fordice* 90-1205 n. pag.). This is to say, White argues that these courts failed in their judicial responsibilities because they did not employ reasoning that reflects correct legal standards—legal truths.

My description of Law as Looking Glass is too brief to encompass the complexities of such a metaphor and all it entails, but even these examples point to the significant role that the Law as Looking Glass conceptual metaphor plays in providing a basis for reasoning in the legal texts of *Ayers*. Now, I would like to shift my emphasis somewhat. Eubanks argues that recognition of conceptual metaphors in discourse is one thing, but "it is another thing to note that each of these metaphors entails—is inflected by—political, philosophical, social, and professional commitments. It is yet another to note that these inflections give rise to a standard rhetorical etiquette that flexibly governs the use of [such metaphors]" ("Conceptual" 191). This is to say, it is one thing when Justice White claims that the state has been remiss in its readings of the law and that these laws must be read "in light of proper standards" (*Ayers v. Fordice* 90-1205 n. pag.). White's use of the expression is inflected by his perceived commitments and ideologies.

In fact, Eubanks argues that when uttering any metaphorical expression, the speaker makes a rhetorical choice: “to claim the metaphor or not to claim the metaphor” (191). White is claiming the metaphor in these passages. His articulations of standards, cultural norms, and institutional histories are predetermined by his willingness to reason this case using the conceptual metaphor Law as Looking Glass. For White, the very purpose of the law is to shine a light on the ways in which justice should function in our society.

I agree with Eubanks’ theory that this is not a simple choice, but I would add that it is not always a consistent or conscious choice either. Consider for example Justice Clarence Thomas’ concurring opinion regarding this case.⁴⁶ Thomas utilizes but does not claim the Law as Looking Glass metaphor to which he finds himself responding. In his discussion of *de jure* segregation and intent, he claims: “Thus, if a policy remains in force, without adequate justification and despite tainted roots and segregative effect, *it appears clear—clear enough to presume* conclusively—that the State has failed to disprove discriminatory intent” (*Ayers v. Fordice* 90-1205 n. pag.). For Thomas to claim this metaphor and argue his point convincingly, the phrases “appears clear” and “clear enough to presume” are not compelling. Certainly, the conceptual metaphor Law as Looking Glass demands clarity if nothing else. Thomas, therefore, casts doubt on his own opinion via his rhetorical choices. Indeed, he does so more than once. In his discussion of the Court’s analysis of the application of *Green* to *Ayers v. Fordice*, he states: “As Justice Scalia points out, *our standard appears to mirror* these formulations rather closely. Nonetheless, I find most encouraging the Court’s emphasis on ‘sound educational practices’” (*Ayers v. Fordice* 90-1205 n. pag.). In this passage, Thomas is using the Law as Looking Glass metaphor, but he is simultaneously contradicting the implications of the metaphor. Standards of law can be mirrored or not; they cannot

“appear to mirror.” Eubanks claims that metaphors have costs and benefits associated with them when utilized and the costs often involve the credibility of the rhetor. Thomas’ refusal to take responsibility for the metaphor leads to doubt regarding his ruling in this case. And his status as the lone African American justice provides additional strength to this reading and further confusion to the community of students he is purportedly attempting to serve. His ethos is suddenly called into question as he attempts to justify his ruling.

Interestingly, in his orders to the state based on the Supreme Court’s remand, Judge Biggers’ adherence to the Law as Looking Glass metaphor is problematic; in fact, he attributes the metaphor to the Supreme Court from the beginning of his opinion. Biggers responds to the metaphor in question, but only by quoting directly from the Supreme Court’s ruling. His rhetorical choice to quote the Supreme Court’s language is clearly intentional. In his statement of the case, Biggers acknowledges the high court’s ruling and remand that the district court consider “the State’s duties *in their proper light*” and defines the his court’s task on remand as an examination of state policies “*in light of the proper standard*” (*Ayers v. Fordice* 4:75CV009-B-O n. pag.). Biggers is caught in a double bind in his attempt to maintain his own legitimacy while following the orders of the nation’s highest court. The result of this double bind is a legal opinion in which Biggers’ attempt to regain authority in this case leads to ambiguity regarding the outcome. By suggesting that he disagrees with the Supreme Court’s remand and refusing to claim one of the salient metaphors being utilized by the Court, Biggers can be viewed as consciously casting doubt on the validity of his own decree; his rhetoric directly contradicts the stated (and intended) outcomes of the case. His use of language is an example of what Gale claims is “legal rhetoric work(ing) to undermine justice as it

attempts to deliver justice” (4).

The contradictions between outcomes of legal cases and the legal discourse that makes up the cases have the potential to create problematic inferences regarding basic writers. For example, if the majority of society consciously or unconsciously reasons that the law reflects social truths, how are our understandings of basic writers (and their perceptions of themselves) shaped and enacted by the legal discourse of these opinions? For despite the conflicting ways remedial education is described in these documents, basic writers tend always to be characterized as deficient. If the law is a looking glass that allows us to see truths about the objects before it, in this case the law is most definitely informing society that basic writers are deficient and less promising than other students. Therefore, when Judge Biggers, in his original dismissal of *Ayers v. Fordice*, points out that “ACT requirements currently in use are reasonable and constitutional and that medical, law, and engineering hopefuls should be held to at least as high admission standards as the NCAA requires of tight ends,” we must consider the implications of his language (*Ayers v. Allain* GC75-9-NB n. pag.). He is consciously comparing the intellectual worth of college students by referring to the cultural stereotype of college athletes as “dumb jocks” and suggesting that such exceptions to academic rigor and standards are the only worthy exceptions because they at least provide us with entertainment. This type of characterization is detrimental to basic writing students as an establishment equated with power in our society is defining them.

Racism as Environmental Disease

In my attempts to identify and examine salient patterns of conceptual metaphors in the judicial opinions of the *Ayers* case, not surprisingly the most explicit conceptual metaphors involve racism. Historically, the most common conceptual metaphor of

racism is Racism as Disease.⁴⁷ In order to metaphorize racism as a disease, we must rely on another conceptual metaphor: Nation as Body. Such an image-schema requires us to consider the nation as a human body and leads to various metaphorical expressions such as “racial healing,” “racial wounds,” and even “ethnic cleansing.” I argue that the disease metaphor adhered to in the judicial opinions of *Ayers v. Fordice* is Racism as Environmental Disease. Many of the linguistic expressions afforded by the Racism as Disease and Racism as Environmental Disease metaphors are similar, but conceptualizing racism as an environmental disease assumes an environmental and heterogeneous view of the nation as an ecosystem that consists of numerous “bodies” and environmental forces—a conceptual metaphor that still allows for image-schema that suggests disease and infestation. This conceptual metaphor provides a rationalization for expressions such as “*uprooting the effects of segregation*,” “*patterns of segregation*,” and “*eliminate the vestiges of racism*” (*Ayers v. Allain* 88-4103 n. pag.). The nation becomes a garden in need of cultivation. Like weeds, racism makes its way into the garden and must either be eliminated or effectively managed in order to ensure the productivity and growth of the garden as a whole.

The conceptual metaphors Racism as Disease and Racism as Environmental Disease can certainly be viewed as systematic and coherent based on Lakoff and Johnson’s requirements for subcategorization. In each of these conceptual metaphors, racism is characterized as harmful and as something that can be remedied. Racism as Disease entails that racism is capable of infesting the body of the nation in the same way that bodily disease is capable of infestation, of continued growth and survival, of perpetration, of scarring, of killing, and of inhabiting the “body.” However, such an entailment also suggests that racism as a disease can be treated, remedied, and even

eliminated. The same is true of Racism as Environmental Disease. In the south, this conceptual metaphor might be envisioned as a kudzu vine. It has roots and branches; it is capable of survival and growth even in foreign climates; it smothers healthy growth around it; and, in short, it infests the landscape. In addition, like bodily disease, this environmental disease, this “weed,” can be treated, uprooted, and, for a time at least, eliminated. Two issues need to be examined regarding these conceptual metaphors. The first is something we cannot ignore: whether we metaphorize racism as a bodily disease or as an environmental disease, we, on some level, are conceptualizing it as natural. It is no one’s fault. We are suddenly forced to consider the prospect of racism as cognitively entrenched—a concept often manipulated by white supremacists in efforts to justify racial subjugation. Second, both of these metaphors require that we consider a method of treatment—as both bodily and environmental disease are considered harmful to their respective host environments.

The complexities inherent to these two similar conceptual metaphors are evident throughout *Ayers v. Fordice*, and it might be helpful to begin considering specific examples. As a starting point, I return to Judge Goldberg’s opinion explaining the U.S. Court of Appeals’ decision to reverse and remand the District Court’s dismissal of *Ayers*. Goldberg begins the Decision portion of his opinion by contrasting the two courts’ readings of the U.S. Supreme Court’s 1968 decision in *Green v. School Board of New Kent County* regarding the responsibility of the New Kent County school board in West Virginia to ensure desegregation of public schools. Goldberg argues that “the standard implemented by the *Green* Court places an affirmative duty on states to eliminate all of the ‘vestiges’ or effects of *de jure* segregation ‘root and branch,’” and that the District Court’s alternative reading of *Green* “requires a state to implement, in good faith, race

neutral policies and procedures **instead** of *uprooting* the *vestiges* of segregation *root and branch*” (*Ayers v. Allain* 88-4103 n. pag.). Goldberg essentially argues that adhering to race neutral policies (consistent with the District Court’s reading) is not the same as eliminating practices and policies that might be associated with racism and encouraging further integration. These conflicting readings of *Green* and their application to *Ayers v. Fordice* constitute the majority of the legal dispute between courts as to Mississippi’s responsibilities in regards to the racial identifiability of its public universities.

The metaphorical language of removing the *vestiges* of segregation *root and branch* utilized by the Supreme Court in *Green* is quoted, co-opted, and reframed throughout each of the judicial opinions in the *Ayers* case. Indeed, this metaphorical expression that enables the reader to conceptualize racism as an organic, living, weed in our public universities is the most cited conceptual metaphor in the legal texts of this case. In Goldberg’s opinion alone, the phrase “root and branch” is used nine times, not including the quotations from *Green*. And while one could certainly argue that this is merely a metaphorical expression that became convenient in order to reference legal cases of precedent, such an argument does not take into account the pervasiveness of this particular metaphor. This is to say, conceiving of racism as something organic like a weed requires us to imagine it as having a cause and react in respect to it; this is one of the metaphors we consciously or unconsciously use to reason about racism. As a society, we understand and experience racism as something naturally present, but with negative consequences. For example, consider the following passages from Goldberg’s opinion:

- “mandate to *uproot* the *entrenched results* of racial subjugation”
- “a state’s duty to *eradicate the effects* of de jure segregation”
- “the *application* of *Green* in all of its *fertility*”

- “*vestiges* of de jure segregation *permeate* the public university system”
- “even if the *roots of prejudice* and the *effects* of segregation *run deep*”
- “*ventilate* the court room with ideas from the *winds* of truth.”

(*Ayers v. Allain* 88-4103 n. pag.)

Each of these phrases clearly utilizes the metaphor Racism as Environmental Disease.

These passages emphasize disease and the negative effects of disease by reasoning about racism as decay that “permeates” and “run[s] deep.” In addition, Goldberg’s rhetorical decision to refer to the “fertility” of previous court cases and the need for “ventilation” and “winds of truth” in the court room underscores the significance of the environmental portion of the metaphor. Goldberg’s reasoning requires the reader to conceptualize society as a landscape that includes numerous “bodies,” as opposed to the one physical body that the more common metaphor denotes. In addition, note Goldberg’s concluding paragraph:

The defendants have not satisfied their affirmative duty under Green. Green demands the removal of all *vestiges* of de jure segregation *root and branch*. The facts in this case, however, demonstrate that *roots are spread all over the terrain* and that *branches create shadows* over areas where Brown was supposed to usher in *rays of sunshine*. The badge of inferiority that marks black institutions has not been removed. As such, there remains in Mississippi’s higher educational system *vestiges* of discrimination *which distort* the perceptions of black students.” (*Ayers v. Allain* 88-4103 n. pag.)

These examples are certainly representative of Goldberg’s intentional and poetic use of the metaphor Racism as Environmental Disease, and some readers might argue that such

use is merely a rhetorical device meant to thematize Goldberg's opinion. Such a literal reading, however, ignores the cultural, historical, and political power of racism in American culture, as well as the role conceptual metaphors play in our ability to reason about abstract issues. Goldberg is simply articulating our tendency to inscribe such relatively abstract concepts (in this case, racism) with characteristics from another domain (in this case, the organic environment) in order to reason about the effects and underlying components of racism. The conceptual metaphor Racism as Environmental Disease is what allows us to understand that racism is not simply a belief, a severely warped personality flaw. Rather, it is an environmental disease that permeates the ecosystem. Indeed, in his discussion of *Ayers* and whether or not there is evidence of discrimination, Goldberg claims, "the present case is replete with the disease" (*Ayers v. Allain* 88-4103 n. pag.).

While Goldberg makes use of this conceptual metaphor in concrete and literary—almost thematic—ways in his opinion, the remaining judicial opinions reason about racism in similarly metaphoric ways. In the U.S. Supreme Court's remand, Justice White rejects the premise that the state's responsibilities are limited to present discriminatory effects and argues the state must address "whether such *consequences flow* from policies *rooted* in the prior system" in order to take the necessary steps to "*ameliorate*" racial identifiability (*Ayers v. Fordice* 90-1205 n. pag.). White's opinion contains numerous metaphorical expressions similar to these in his efforts to publicly explain the responsibilities of the state to eliminate surviving aspects of segregation in the state's public universities. One of his most interesting articulations of the Racism as Environmental Disease metaphor involves his discussion of how state and institutional policies linked to de jure segregation must "be *eliminated* without *eroding* sound

education policies” (*Ayers v. Fordice* 90-1205 n. pag.). In this context, racism is certainly an organic disease; it is a weed that must be eliminated. More importantly, this elimination must be conducted in a manner that will not cause erosion of the so-called sound education policies—the land the garden inhabits—surrounding it. White uses this expression two different times in his opinion, and it is quoted in Justice Thomas’ concurring opinion. Indeed, if we continue to push this metaphor we are confronted with the concept of these sound education policies as “healthy growth” in our educational environment. How exactly are we to completely eliminate the weeds without harming the flowers? Do we uproot them? Are they so entrenched that such action is futile? Do we use organic pesticides? Prune them in hopes of creating something more similar to a butterfly garden? Encourage some sort of cross-pollination? Is the goal some sort of remission; or is it complete elimination? And how might these goals be met? Critiques of the High Court’s decision in this case involve the lack of direction the Court provides the lower courts regarding exactly how they expect these vestiges of discrimination to be addressed and eliminated while still maintaining “sound educational policies.”⁴⁸ This lack of clarity regarding how to address the problems that stem from conceptualizing racism as an environmental disease does not affect the role and pervasiveness of the metaphor, but rather further points out the ambiguousness of a “cure” based in “remediation.”

As suggested above, we must pay attention to the fact that our conceptualization of Racism as Environmental Disease can be extended to basic writers. Certainly it is not uncommon to hear discussions in university hallways of how we as faculty are going to *cultivate* the growth of our student population when we have so many students in need of additional *attention*. How do we *weed out* the unprepared students? Whose

responsibility are they? Do we simply not allow them access to the university for fear that they may *infect* the rest of the student population? Do we establish gate-keeping courses as a means of *eliminating* underprepared students? Do we *segregate* them and simply try to keep them from *encroaching* on the *healthier* student spaces? Do we employ *alternative* pedagogies that might be capable of reaching such a *diverse student body*? The questions posed above are accurate representations of the questions being asked by faculty with differing perspectives of what constitutes a student capable of doing college-level work and, unconsciously, they are relying significantly on an environmental and disease-laden metaphor of difference.

Moral Politics and Competing Views of Basic Writers

The conceptual metaphors Law as Looking Glass and Racism as Environmental Disease clearly function to shape our understandings of the ways legal discourse frames basic writing programming and, consequently, the subject positions of basic writers. In addition, each of these metaphors can be subverted for different aims and purposes. The final system of conceptual metaphors this project will examine is more overtly political than the previous metaphors because the associated metaphorical expressions can be plainly classified as conservative or liberal—creating even more irresolvable conflict regarding the roles of metaphors in framing basic writing programming. Because these types of programs play a major role in students' access to higher education, it is not surprising that the most foundational conceptual metaphors present in legal discourse that affects access involve standards of education.

In order to begin to understand how conceptual metaphors associated with standards lead to competing views of basic writing, I must return to George Lakoff and his influential text, *Moral Politics*. According to Lakoff, the discourse that constitutes

discussions of any contentious political issue—including education—can be traced back to liberal and conservative competing worldviews of the family, and these views are readily apparent via power-based metaphors centered on family models. This conceived relationship between the conceptual metaphors Nation as Family and Moral Accounting are significant to our understandings of each of these issues. Lakoff argues that the conceptual metaphor Nation as Family entails that our nation is a family and the government serves as the parental figures for this family. In addition, the Moral Accounting metaphor entails that our moral systems involve a quantifiable and financial system of checks and balances regarding the moral choices we make as citizens and includes each of our major moral schemes: retribution, restitution, reciprocity, and altruism among others. Because our cultural understandings of family dynamics include parental figures investing in their dependents' moral character, these two conceptual metaphors are schematically linked, and they result in metaphors of opposing family models: the Strict Father Morality model and the Nurturant Parent Morality model. In brief, the Strict Father model of the family alluded to in the discourse of political conservatives involves a patriarchy in which the father figure sets policy and rules for the household, and obedience, self-discipline, and self-reliance are advocated for children. Parental authority in and of itself, in this model, is representative of the love and nurture expected in family relationships. The liberal family model based on the Nurturant Parent, on the other hand, prioritizes love, empathy, and nurture. In such a metaphorical model of the household, children learn responsibility by caring for and working with others, and communication is essential. Lakoff argues that each model with its differing moral priorities is linked to politics based on the common belief in the nation as a family in which the government serves as parental figures.

Lakoff provides an in-depth examination regarding how these familial metaphors are utilized by conservatives and liberals in order to address numerous social policy issues, including education. Lakoff claims that the conservative, Strict Father model of morality is represented in education most specifically by concepts of absolute standards of education. He argues:

The conservative recipe for a good educational system is simply to apply conservative principles and the conservative notion of standards. Teach conservative morality and the conservative notion of character, starting with self-discipline; this is called traditional morality. Set standards based on the classics of Western culture that are tried and true and have withstood the test of time. Make students work hard. Use a system of rewards and punishments: grade seriously and rigorously and fail people who deserve to fail. If there is going to be an elite, it should be an elite of talent, hard work, and achievement. Let those factors determine success. If students fail, they have to take responsibility for their failure, and either do better next time or go through life as failures. (234)

The relationship between conservative discourse on education and standards suggested by Lakoff is alarmingly accurate.⁴⁹ Historically, political and public outcries regarding the perceived literacy crises in education are evidence of such mentality. More importantly for the purposes of this project, however, the judicial opinions of *Ayers v. Fordice* and the eventual settlement documents are representative of such conceptualizations of the function of education as well. In his discussion of academic preparedness in his original dismissal of *Ayers*, Judge Biggers continually refers to academic standards and economic bottomlines. Students are referred to as “not capable of doing college level work” or

“simply unprepared” (*Ayers v. Allain* GC75-9-NB n. pag.). Discussions of the contribution of remedial courses to the university system involve whether or not students can show “mastery of content.” Note the following passage in which Biggers discusses the differing academic standards of the historically black colleges and universities and the historically white institutions:

“If the [challenged *education standard*] is valid, enjoining its use would not, in any meaningful way, *counteract* the effects of past segregation, but might simply serve to *perpetuate a dual standard*,” by reinforcing the stereotype that minority students cannot satisfy *generally applicable educational standards* and by *diluting educational benefits offered* to all students, black and white. Indeed, if *valid academic standards* were *lowered* to eliminate a disparate impact, this would simply serve to *lock in*, not *correct*, any educational deficiencies suffered by black children in elementary and secondary schools, by “celebrating and perpetuating the hollow *certification* that accompanied black graduation pre-*Brown v. Board of Education*.” (*Ayers v. Allain* GC75-9-NB n. pag.)

Biggers’ reliance on standards is representative of the conservative model of parenting defined by Lakoff. From Bigger’s perspective, universal standards of education are not only necessary, they are the basis for a sound educational experience. Consider the phrase “valid academic standards.” Who is it that defines these “valid” standards? In this particular instance Biggers is discussing ACT entrance requirements and the state’s college preparation “core” curriculum. There is much discussion of the historic use of ACT scores to discriminate against minorities attempting to gain entrance to colleges and universities, but in his original judgment, Biggers argues that the ACT alone is a sound

indicator of college preparedness. And while he is forced to reconsider this decision when the case is remanded by the U.S. Supreme Court, his original inclinations regarding standards of education are evident even in his final decision eight years later.

In addition to a reliance on standards, the Strict Father approach adheres to a market metaphor of education in which education is conceptualized as a product and students are consumers.⁵⁰ Indeed, this conservative, market-driven metaphor of education has been embraced by many critics of higher education who argue that we are turning out an inferior product at increasing costs to the consumer. This conservative conceptual metaphor emphasizes the efficiency and accountability of institutions of higher education. It is also, not surprisingly, the prevailing metaphor of legal texts surrounding education because of the fact that the role of the law is to discern the rights and duties of educational institutions and private citizens. When discussing higher education this means reasoning about education by conceptualizing it as a service akin to a business. Consider the previously quoted passage and its adherence to this conservative, market-driven model of education. Biggers discusses “counteracting” the negative effects of segregated education in the same way that the market responds to external pressures. He embraces market-based notions of cash fluidity in his suggestion that the education “benefits offered” can be “diluted.” He refers to standards as entities that can be raised or “lowered” supposedly at will. And he refers to education deficiencies as rates that can be “locked in.” Also in his original dismissal, when Biggers discusses state funding of eight public universities with overlapping missions, he claims: “it is very easy indeed to become concerned with the *inefficiencies* and *wastefulness* of the higher education system in the state which came out so clearly from the evidence” (*Ayers v. Allain* GC75-9-NB n. pag.).

His emphases on standards and economic accountability are reinforced in his final decision as well. Consider, for example, the epigraph to this chapter in which Biggers describes the new admissions requirements for Mississippi's institutions as "moderate" in comparison to California's "competitive" admissions standards (*Ayers v. Fordice* 4:75CV009-B-O n. pag.). This rhetorical choice immediately suggests that Biggers considers the admissions requirements as less than appropriate for a college education. In this passage, not only does Biggers' language describe Mississippi's college system in a fashion normally reserved for business or home purchase (clean environment, low crime rates, etc), but he also points out that on some campuses 90% of students are attending college on federal Pell Grants. This rhetoric makes a problematic connection between students who are underprivileged financially and lower admissions requirements. Moreover, in the discussion section regarding the varying admissions policies of the state's universities and his consequent justification for parity, Biggers writes:

Likewise, the segregative effect of such differential admissions policies cannot be denied in view of their *operation in a system of higher education* where racially indentifiable institutions *provide* essentially many of the same academic course offerings in *identical or overlapping service areas*. The defendants' current proposal seeks to eliminate this vestige of the *de jure* era, and it is clear that under the *Fordice* analysis the admissions *standards* have served to channel black students to the HBIs. It should be noted that the lower ACT requirements at the HBIs were *put into effect* by the Board only after recommendations by the HBI presidents, but it is the Board's responsibility *to manage* the higher

education system in accordance with constitutional principles. (*Ayers v. Fordice* 4:75CV009-B-O n. pag.)

Here, despite the fact that Biggers is re-examining the case on remand, the legal discourse remains consistent with his earlier opinion. His metaphorical language adheres to the Strict Father model of parenting that advocates absolute standards of education and emphasizes personal and financial accountability. Biggers' cognitively entrenched beliefs regarding education are clearly evident in passages such as this one. This is significant because in a court of law, a judge (the government's representative) is responsible for determining the rights and duties of the citizens in any given case in order to determine what is owed by each party in order for justice to be rendered. Justice, then, is the settling of accounts, the "balancing of the moral books." Theoretically, at least, the decision maker involved in a legal dispute is objective and apolitical (the blind eye of justice); this supposed lack of bias is what allows a person of legal authority to distribute justice fairly. However, if, as Lakoff suggests, our worldviews are cognitively entrenched in a manner that leads us to privilege either strict or nurturant parental (i.e., governmental) strategies, it is impossible for a judge to disavow these beliefs in the interpretation of legal cases.

The problem is that this particular conceptual metaphor that results in a standards-based model of education directly conflicts with the ways we conceptualize remedial education. Remedial education cannot be rationalized in financial terms; rather, the whole concept of basic writing programming adheres to a nurturing metaphor of education that revolves around growth.⁵¹ Such a worldview centers on nourishment of the mind. In fact, Lakoff suggests that the liberal, Nurturant Parent approach to education does not deny the importance of standards, but instead questions which

standards are appropriate. The priorities of such an approach, according to Lakoff, involve maximum self-development of every individual in order to ensure that he or she can contribute to and serve the community in a manner that is important and satisfactory to all involved. He argues that:

In the Nurturant Parent approach to education, the ability to nurture successfully requires honest inquiry; we must know ourselves and our history, not only the bright side, but more importantly, we must know the dark side of America...It involves teaching honestly about controversial and socially volatile issues, and understanding why they are socially volatile. It does not distort either the past or the present to make us feel good. It tells the truth. *It encourages questioning.* It is not just a matter of learning facts. It involves understanding what those facts mean in a larger context—both a historical and a contemporary one. It also requires understanding differences in points of view, in learning that there is not just one way to view events. (235-36 emphasis mine)

I would argue that in theory most compositionists subscribe to a model of education similar to this. After all, such an emphasis on inquiry, access, and community is proven to provide students with more significant educational experiences. According to Lakoff, the nurturing and growth model of education does not ignore standards; rather, it chooses not to utilize standards as a method of exclusion. It should not be surprising, then, that while the legal mandates that resulted from Ayers suggest access (and, consequently, nurture), this particular metaphor is most notable for its absence in the legal discourse that comprises the case.

Of course, the brief explanation offered at the beginning of this section simplifies the role Lakoff's argument regarding conceptual metaphors and political orientations plays in both education and the law. However, Lakoff's descriptions of how conservatives and liberals reason about issues based on radically different notions of morality lead to important questions regarding the *Ayers* case specifically, and the law and education more generally. What are the implications when a judge, a person of authority and purported objectivity, describes admissions requirements, developmental education programs, and potential students using metaphorical language that is grounded in conservative notions of standards, failure, economic bottom lines, rules, meritocracy, and complete self-dependence and self-reliance in a case that is supposed to lead to access for these same students?

The problem, as I have illustrated in this chapter, is not that any of these metaphors is more productive than others; rather, the problem is that the various conceptual metaphors that we consciously and unconsciously use to make decisions about basic writers conflict to the point of unproductive tension. Relying as it does on competing conceptual metaphors, legal discourse enacts competing models of basic writing programming and basic writers. This in turn leads to further isolation of these students because the conservative rhetorical approach to the metaphors is often privileged. *Ayers v. Fordice* is an example of how the legal discourse in any court case can serve to undermine the original intentions of the case. Ideally, the final *Ayers* settlement would have led to increased access for minority students at all state universities and academic and financial support for students considered underprepared by traditional standards. My analysis demonstrates how legal discourse can undermine such idealized intentions and the inconsistencies that result. In the next chapter, I will examine

how these conceptual metaphors in media and community responses to *Ayers* further complicate the subject positions of basic writers.

CHAPTER IV

AYERS V. FORDICE: PUBLIC RESPONSES AND INSTITUTIONAL ENACTMENTS

Racially identified space results from public policy and legal sanctions—in short, from state action—rather than from the unfortunate but irremediable consequence of purely private or individual choices...if racial segregation is a collective social responsibility rather than exclusively the result of private transgressions, then it must either be accepted as official policy or remedied through collective action.

Richard Thompson Ford (1995)⁵²

The messages to Mississippi's current crop of college students are becoming more skewed and more dangerous when the *Ayers* desegregation case is the topic of debate.

Sid Salter (1994)⁵³

The first three chapters of this project are devoted to examining the ways that legal discourse and conceptual metaphors help to shape and determine our understandings of basic writing programming. I now want to discuss how the public discourse responding to court cases such as *Ayers*—interviews, news articles, cartoons, letters to editors, and opinion columns in national and state news outlets, as well as political correspondence—further limit how we think about and discuss basic writing programs and the subject positions available to basic writers. As compositionists, we must heed such reactive texts and “take seriously the ordinary documents and local news that describe us and our students, rather than dismissing them as just university politics or local news” (Stygall 20). We must address the significant impact of legal discourse and public and political discourse on both the subject positions available to students and on

priorities in the arena of higher education. Indeed, as Susan Miller claims in *Assuming the Positions*, ordinary, reaction-based texts such as the texts mentioned above

simultaneously appropriate and mutate an expanding range of human identities that become available in specific cultures over time...[They] embody the always provisional human identities that are unevenly available in discourse, subject positions that experimental moments of utterance constitute. Ordinary texts unite experience, official discursive practices, and fleeting statements on graphic surfaces that make specific cultural signatures legible. (2)

This is to say, the examination of ordinary, daily discourse provides an insight into how our culture is not only constructed, but also constructed “unevenly.” Veritable snapshots of public discourse combine in ways that privilege specific cultural identities over others. Ordinary language, according to Miller, “reveal[s] the intersections of social vectors, forces that produce discursive actions that have simultaneously material, aesthetic, and ideological consequences” (2). Miller’s claim expands our understanding of how public responses to laws governing higher education are relevant to the functioning of the university and to the specific ways that our students perceive themselves and are labeled by others. Indeed, an analysis of the “ordinary” discourse surrounding the *Ayers* legal battle reveals the same conceptual metaphors prevalent in the judicial opinions of the case alongside the legal, political, cultural, and historical forces that ultimately shape how we teach and value both writing and underprepared students in composition classes at the university level. It is my hope that an examination of the metaphors and standards-based language in these everyday documents will provide insight into the public’s varied perceptions of the *Ayers* case and the ideological consequences of legislation and higher

education.

In his 1998 dissertation, Kenneth Gilreath notes the significance of public interest in *Ayers v. Fordice*:

Fordice had become much more than an issue of education. To many citizens of Mississippi and other proponents of equal opportunity, this case had the potential to decide whether black students, especially those who were products of an inferior elementary and secondary school system, would ever have an opportunity to attend any college or university. The importance of this case was confirmed with a simple canvas of the courtroom. In attendance, there were not only educators and legal experts but patrons from numerous areas of the community. Two parents and their six children came because they were interested in the future of Mississippi's treatment of its black residents. Also in attendance was an 80 year old former teacher hoping for a change in the long lasting educational process. An elderly store owner whose eight grade education was interrupted when white supremacists set fire to his schoolhouse, and a curious Senegalese anthropologist who specifically traveled to Mississippi in an attempt to understand Mississippi's hypocrisy to American democracy. (237)

Gilreath's observations of the *Ayers* courtroom provide insight into the ways legislators, administrators, loan providers, and parents pay attention to political and legal happenings regarding the institutions in which they feel they hold intellectual, legal, and financial stakes. This interest ultimately leads to public demands regarding the role of the university and its students. Inevitably, such demands assist in the formulation of

classroom practices that lead to students' understanding and reliance on the same conceptual metaphors prevalent in the judicial documents that dictate how we read this case and reason about its consequences. These "ordinary documents" complicate, create, sustain, and enact what become restrictive and problematic subject positions available to basic writers, creating a limiting "cultural signature" for these students.

As discussed in Chapter III, the *Ayers* case and resulting legislation influenced higher education in Mississippi in numerous ways: the cultural, political, and educational roles of historically black colleges and universities, the state's fiscal responsibilities to each of its institutions, the role these institutions play in ensuring access, the revised admission standards that purportedly allow both access and retention, and the responsibilities of higher education institutions regarding remedial education. While the majority of the public responses to the *Ayers* case involve the fiscal appropriations and proposed methods to achieve equality between HWIs and HBCUs, there were also myriad responses to the various ways Biggers' ruling changed state admissions standards and, consequently, access and remediation.⁵⁴ Biggers rejected the open admissions standards suggested by the plaintiffs and ordered all eight universities to adopt identical admission standards that used indicators other than the ACT and completion of the college preparatory program. Biggers' final decisions were widely criticized by the black population, and plaintiffs in the case unsuccessfully attempted to have the Supreme Court block the enactment of the new standards.⁵⁵

Biggers argued that while initially this solution might result in fewer black candidates for higher education, the proposed summer developmental program would ensure that every student had the opportunity to prove himself capable of college-level work. He pointed to the state of Louisiana as an example of failed open admissions

experiments, and, as noted in the previous chapter, he argued that these new standards were still extremely moderate when compared to states such as California where only one in ten students who apply are accepted to state universities. Biggers argued that higher standards lead to higher achievement and that these admissions standards were a promising compromise for Mississippi's students. Responses to the state's new admission standards and the various settlement options being considered in relation to the case circulated through numerous public venues, including national and state media outlets. This public discourse allows us to examine how what Miller refers to as "the intersections of social vectors" leads to an "undoing" of mandates for educational access (2). Analysis of such discourse suggests that legal requirements to provide access to underprepared students cannot lead to genuine access because the majority of the public reasons about these students via pre-framed, conservative conceptual metaphors that are limiting, rather than freeing, in nature.

The belief that public, written discourse regarding educational priorities, and media coverage of those priorities in particular, has the power to shape our culture is the basis of Romy Clark and Roz Ivanic's seminal text, *The Politics of Writing*. Clark and Ivanic argue that the writing practices of the mainstream press "play a major role in the construction and maintenance of dominant ideologies and the related socio-economic order that these sustain" (21). Relying on Gramsci's concept of hegemony, Clark and Ivanic argue that the press is "crucial in constructing and maintaining consent around the interests, values, and actions of the dominant socio-economic group whose interests are more or less directly represented by the government," and that the resulting public texts are "where meanings are transmitted by few and received by many" (23-5). According to Clark and Ivanic, the common belief that media "plays a purely reflective role" in

society leads to the mistaken notions of an unbiased and free press corps; when, in fact, the media continues to “articulate themselves around definitions that generally favour the hegemony of the dominant class” (33). While aspects of Clark and Ivanic’s arguments regarding the impacts of the press are now dated, especially given the proliferation of blogs and the independent news outlets enabled by internet access, their belief that the mainstream press reflects the values of the government and, therefore, influences the tactics employed by local schools in the educating of children is one that I share. In addition, while Clark and Ivanic do not extend their argument to focus specifically on higher education, an examination of the press coverage of *Ayers v. Fordice* suggests that the policies and standards of higher education are intimately connected to a governmental system whose rhetoric simultaneously invites and dismisses the educationally underprepared.

This chapter will consider the ways in which the public discourses of both the media and citizens of Mississippi regarding the *Ayers* case shapes our understandings of underprepared students and the programs that serve them. To do so, I will examine a corpus of national and local news articles and archived letters from private citizens to Governor Kirk Fordice, looking at two different, but related, aspects of the texts. I intend to examine how the conceptual metaphors identified in the legal discourse of the *Ayers* case are enacted in the public discourse surrounding the case, but I also plan to pay close attention to the “moral politics” of ordinary public discourse and what emerges as a nuanced portrait of the subject positions available to basic writing programs and the students associated with them. This is to say, we cannot fully appreciate the significance of the conceptual metaphors identified in this study unless we also examine the power of public discourse in determining how these metaphors are enacted. My corpus includes

the twenty-three articles published in the *The Chronicle of Higher Education* between 1991 and 2002 addressing the *Ayers* case, seven articles published in *The New York Times* from 1990 to 2001, 188 articles collected from the *Ayers* subject files at the Mississippi Department of Archives and History from 1987 to 1995, and fifteen letters archived in the files of Governor Kirk Fordice's Education Advisor, Jeanne Forrester.

Ayers v. Fordice, Conceptual Metaphors, and the Mainstream Press

The previous chapter examined the conceptual metaphors nested in the legal discourse of the *Ayers* case. Not surprisingly, the conceptual metaphors present in the legal discourse of the case are readily apparent in the media's coverage of the case as well. Indeed, of the thirty articles published in national periodicals addressed in this study, seventy percent involve standards-based conceptual metaphors, and thirty percent of the articles include references to the conceptual metaphor of "Racism as an Environmental Disease." While the "Law as Looking Glass" metaphor and growth metaphors of education are less prevalent, they are also represented in the public discourse of the national press. These metaphors are also noticeably evident in coverage of the case by the local press. Almost twenty-five percent of the 188 articles included in the *Ayers* subject files contain standards-based conceptual metaphors. Many of these local news articles also contain references to the three additional conceptual metaphors identified in this project, but the numbers are not statistically significant. This section of my project will provide close analysis of the ways these conceptual metaphors play out in public discourse and the consequent implications for basic writing programming and basic writers. For not only are these conceptual metaphors present in media discourse, but they also serve to enact limiting subject positions for basic writers.

Racism as Environmental Disease

The national, perhaps even global, perspective of Mississippi as a state incapable of escaping its racist past dominates news articles addressing *Ayers v. Fordice*, and public responses to *Ayers* that circulate in a national forum very often adhere to the conceptual metaphor of Racism as an Environmental Disease present in the legal discourse of the *Ayers* case. For example, in the January 18, 1994 issue of the *New York Times*, Peter Applebome considers how Mississippi's history of racism continues to dominate its political landscape by comparing two separate, but concurrent, legal trials: the trial of Byron De La Beckwith for the assassination of civil rights worker, Medgar Evers, and the *Ayers* case. Applebome describes Mississippi as "a state where the past seeps into the present like *the smoke from a grass fire*" (emphasis mine, n. pag.).⁵⁶ Applebome strategically employs a metaphor to which readers will easily relate as he suggests that Mississippi's racist past is similar to "grass fire," an environmental issue with the potential to cause serious harm to the landscape. It is yet another type of environmental disease capable of destruction. His metaphorization of Mississippi's racist past as "the smoke from a grass fire" is also interesting because, unlike naturally occurring environmental diseases, brush fires can be both natural and man-made. In addition, his emphasis on the word "smoke" allows the notion of racism to be viewed as something that cannot be fully extinguished, but lingers even after the fire is exhausted.

Local perspectives referenced in such articles provide similar examples of the Racism as Disease image-schema. For example, discussing the crippling effects of racism in the state, Applebome quotes Mississippi Senator John Horhn, a black democrat: "This state's *psyche* is very much like a *cancer patient*. *You can't deal with a cancer* until you get past denying it's there" (n. pag.) Deploying very explicitly the Racism as Bodily

Disease metaphor, in which racism is metaphorized as a type of cancer, Senator Horhn's comments are indicative of the black community's response to the political and financial ramifications of the *Ayers* case for HBCUs. Not only is Horhn reasoning about racism as a disease commonly associated with fear and death, but he also suggests that the state is in need of a diagnosis (and, consequently, a remedy). In each of these examples, racism is conceptualized as an infestation of otherwise healthy environments. And while neither of these passages refers specifically to basic writers, they both have implications for the community's perceptions of how racism relates to education and for minority students (often assumed to be basic writers). From this perspective, racism in education is not only historic and ever-present, but even when in a state of "remission," it is obviously present in the minds of administrators, educators, and students. And while Applebomb's and Horhn's versions of this conceptual metaphor lead to descriptions of the institutions as diseased due to their historically racist actions, I will argue later in this chapter that students ultimately get branded with the stamp of disease supposedly reserved for racist cultural institutions.

Moral Politics

This single article, "The Past Plays a Role in Two Mississippi Trials," incorporates additional conceptual metaphors as well. Senator Horhn is quoted later in the same article saying,

"The Ayers case is a big struggle for this state, because to do it in a way that is most effective for blacks means that whites will have to *give up something*," he said. "They're going to have to *give up* not being committed to quality education for everyone, or they're going to have to

give up some of the resources that historically have been going to white schools.” (n. pag.)

Responses such as Horhn’s highlight the public’s perception of the complicated relationship between education, financial resources, and race. Horhn’s suggestion that predominantly white state institutions must choose between racist educational practices and financial resources is provocative. Reminiscent of Lakoff’s moral accounting metaphor, such statements reinforce our tendency to reason about education as a market-driven enterprise—a “give and take” system that requires institutions to “give up” resources and “provide” services. However, Horhn’s use of a conservative metaphor in what might be seen as a more liberal stance is somewhat ineffective because he is utilizing reasoning strategies regarding the role of higher education that will always be deemed conservative in nature. His argument concerning resource distribution is unlikely to be effective because opponents will counter that resource allocation should be based on production, and that black students will be better served by shifting resources completely to the more established (i.e., historically white) schools. Lakoff argues that liberal politicians are ultimately unsuccessful in persuading the public to action because the metaphorical family model is inherently conservative. I believe the same is true in this situation. For example, this same conceptual metaphor can be seen in its more traditional usage in an April 1996 issue of the *New York Times*:

Proponents say the *new standards*, which *increased* the ACT score requirements by one point, will do what *higher standards* are supposed to do: *increase student achievement*. "I hear the plaintiffs saying this is going to destroy undergraduate programs at Jackson State," the state's largest historically black institution, said David Sansing, a retired history

professor at the University of Mississippi. "I said to myself, I wish they'd said, 'It's going to be tough, but these black kids can do it; they've *overcome* more than *standardized tests*, and they'll *buckle down* and *score higher*. The world is so much more *competitive* these days, *kids just have to achieve more*.'" (Archibold n. pag.)

In this excerpt the emphasis on a conservative, standards-based model of education nested in our preconceived notions of moral accounting is obvious. Education is about personal choice and responsibility: "Buckle down," "Score higher." Students must prove that they can "overcome" the barriers created by circumstances often beyond their control. As suggested by Lakoff in his description of a conservative worldview of education, Sansing's appeal emphasizes the responsibilities of the student, not the institution. In addition, Sansing's statement is couched in the idea that this is somehow doing "these black kids" a favor. His reference to what the black population has overcome suggests a level of respect for black achievements, but it does not acknowledge the cultural racism associated with standardized tests. He assumes that each student—black or white—has access to quality educational experiences prior to entering college.

Although both Horhn and Sansing draw on the conceptual metaphor of moral politics, they utilize that metaphor differently. In his remarks, Senator Horne attempts to co-opt what is traditionally a conservative metaphor regarding education, emphasizing the significance of resources to education. He reasons that quality education is nested in equality and that equality can only be reached via the exchange of financial resources. Horhn's suggestion certainly has merit, given the long history of financial inequality for historically black institutions, and he attempts to consign the responsibility for education to the state and its institutions using this metaphor. By contrast, Sansing, while arguably

sympathetic, deploys the metaphor to place the responsibility of education back on minority students as individuals responsible for their own educational choices. What must be acknowledged in both of these cases is that readers of the *New York Times* will most likely relate to conservative uses of the metaphor because the public at large reasons that students, not institutions, are responsible for educational success. The result in either case is public descriptions of education that relegate polar subject positions to students and institutions, and the public is more likely to privilege views associated with institutions and the state.

This privileging of subject positions is also understandably evident in the nurturing parent metaphorical approach to education prevalent in the public discourse on *Ayers*. In a December 1991 letter to the editor published in the *Chronicle of Higher Education*, Thomas Bonner claims that “the *world* of the *Ayers* Court cases is not the best of all possible *worlds*, and there has to be *space in our gardens* for some historically black institutions to insure the *intellectual and cultural growth* and stability of a people still *alienated in so many ways from society*” (n. pag). Bonner’s opinion piece relies on an organic metaphor of education that emphasizes the state’s responsibility to nurture minority students. His use of the phrase “space in our gardens” is compelling, allowing us to see the ways various conceptual metaphors such as Racism as Environmental Disease and metaphors associated with moral politics are often nested together. However, Bonner’s argument, like much of the legal and public discourse surrounding the *Ayers* case, conflates minority students and minority institutions in an unproductive manner. For while there is certainly an argument to be made regarding the ability of historically black institutions to provide black students with educational and cultural growth, such commentary privileges institutions over individual students in the minds of

the public. Bonner is promoting access and equality for an underserved population, but conceptual notions of the role of individuals in education ultimately lead readers to privilege students who can make their way without institutional support.

Similarly, consider the following excerpt from an article in the *New York Times*, published April 9, 2000, discussing the effects of standard admissions criteria at Mississippi's universities:

Henry Ponder, president and chief executive of the National Association for Equal Opportunity, a Silver Spring, Md., umbrella group that advocates for historically black colleges, said the results in Mississippi defied the special mission of the institutions. "We have proven that we can *take a child* with low test scores and G.P.A.'s and *make competent citizens* out of them," Dr. Ponder said. "I don't mean *high standards are not worthwhile*. I just don't think all schools should *force students into the same peg hole*. We should have *respect* for individual missions."

(Archibold n. pag.)

Bonner and Ponder both emphasize the role of the university in cultivating the intellectual and cultural growth of minority students often considered underprepared for a rigorous academic experience. However, Ponder's description of these students as "children" who are then "made into competent citizens" is especially interesting. There appear to be significant differences between a conservative model of higher education that describes students as young adults who must take responsibility for their actions, and Ponder's more "liberal" approach, in which these same students are described as children who simply need to be molded in order to be "competent" citizens. I also think it is safe to say, however, that neither of these descriptions is appropriate or beneficial to the

students themselves. In addition, these metaphors of education are polarizing in ways that limit how we view the institutions and the associated students. By choosing to describe the historically black institutions in ways that accentuate nurture and growth, such rhetoric restricts society's notions of minority students and suggests they are less than able. American society, for the most part, accepts and reasons about education via standards, and when particular institutions are classified in alternative ways, those institutions will automatically be deemed lesser in value. In addition, because academic standards are inherently conservative in nature, most conservative readers will not respond to more liberal interpretations that prioritize institutional responsibilities over individual responsibilities.

Law as Looking Glass

Finally, the Law as Looking Glass metaphor is also threaded throughout the public discourse surrounding *Ayers* as the media examines the legal rulings related to the case. For example, in the April 16, 1991 issue of *The New York Times*, Linda Greenhouse discusses the Supreme Court's agreement to review the *Ayers* case and states:

Despite dozens of desegregation rulings in the ensuing decades, the Court has never directly confronted the issue in the context of higher education. Lower court judges have struggled to apply principles that, while *clear-cut* in the arena of elementary and secondary education, often *appear less clear* in the arena of higher education where student choice and historical tradition add to the complexities. (n. pag.)

Greenhouse's suggestion that legal principles might be clear in some situations and murky in others provides further evidence of society's willingness to view the law as

capable of both mirroring and altering the social landscape. The relationship of the law to the social arena mutates based on the control that citizens have in regards to the situation. In this example, Greenhouse reasons that the law clearly reflects the social needs of state-required education systems, but not that of higher education. This suggestion implies that utilizing legal precedents not specific to higher education results in the perversion of the law and, consequently, a distorted view of society. In addition, in his 1991 article in the *The Chronicle of Higher Education*, “For the Supreme Court, a Stark Choice on Civil Rights,” Jay Heubert reasons about the potential outcomes of *Ayers v. Fordice* via the Law as Looking Glass metaphor. Heubert methodically examines the civil rights era judicial decisions leading up to *Ayers* and forecasts the various possible outcomes based on alternate interpretations of the laws at hand. Such reasoning provides examples of the ways in which the law reflects and alters social realities by viewing the social landscape via different legal looking glasses.

What becomes evident upon further investigation of how these conceptual metaphors are utilized in both legal and public discourse is that the same conceptual metaphors can be used, as Lakoff suggests, “with different—almost opposite—priorities” (12). This is to say, each of the metaphorical constructions discussed in this study can be utilized to promote specific ideologies that are very often at cross purposes. Our ability to reason about and express our opinions regarding various social issues hinges on our unconscious use of conceptual metaphors. The political worldview we bring to these metaphors, however, determines how they are deployed and whether they are privileged or ignored by consumers. Indeed, as I have illustrated above, each of these metaphors can be manipulated to serve the needs of the speaker. However, as the analysis of *Ayers* I

have offered suggests, conservative uses of these metaphors that align with the social priorities of the state are almost always privileged.

Ayers v. Fordice, Moral Politics, and Media Discourse

Analysis of the public's responses to the *Ayers* case is complicated by the fact that the case is addressed, at both the national and state level, from significantly different political perspectives with the national media forwarding a more liberal perspective in their discussions of the case. Nevertheless, the conceptual metaphors identified in the judicial opinions of *Ayers* and in the national press articles covering the trial negotiations are also present in local news articles. Rather than continuing to point out where and how these metaphors present themselves, however, I intend to further this study by exploring additional ways the press provides conflicting messages to basic writers through a definite emphasis on standards. In this section of my study, I will analyze the tendencies of media discourse to forward the priorities of the state by adhering to similar conservative worldviews via rhetorical choices. As discussed briefly in Chapter III, George Lakoff claims that "standards define what counts as being disciplined enough" and deems them the "heart of Strict Father morality" (405). Given the extensive press coverage of the changes in admissions standards due to the *Ayers* case, additional exploration of how these standards—academic rules and regulations addressed in each of the conceptual metaphors discussed in this project—are perceived and forwarded by parties in the case and both the local and national press seems necessary.

The Clarion Ledger is considered by many to be the most reliable news source in Mississippi, partly due to its physical proximity to the state legislature.⁵⁷ For the purposes of this project, I will rely primarily on articles from *The Clarion Ledger* in an effort to examine instances in which local press coverage of the *Ayers* case not only

limits the institutional narrative regarding basic writers via entrenched conceptual metaphors, but also limits the agency and actions of these students via the linguistic patterns and rhetorical choices linked to specific political worldviews. Given the extended duration of the *Ayers* legal battle, it should not be surprising that there are hundreds of newspaper articles devoted to coverage of the case. In an effort to limit my examination of these articles to the texts that will be most valuable to our understanding of the subject space of basic writers, the majority of my analysis will concentrate on articles published in the *Clarion Ledger* from 1994 to 1995.

I chose to limit my analysis to this particular time period because it was the most volatile in regards to standards of admissions—the issue that most explicitly affects basic writers in my state. It was in May 1994 that *Ayers* returned to court after parties were unable to come to consensus regarding the U.S. Supreme Court’s findings regarding *de jure* segregation in the state’s educational institutions, and in March 1995, Judge Biggers issued the court’s decree regarding the state’s responsibilities to students interested in public higher education. The press coverage during this time emphasized the various plans of desegregation proposed by the plaintiffs and the IHL. The IHL proposed closing two of Mississippi’s universities (Mississippi University for Women and Mississippi Valley State University), merging Alcorn State University with Delta State University (for a total of six public institutions of higher education) and raising admissions standards at each of the proposed institutions. The plaintiffs argued that such a plan was racist. According to the plaintiffs, historically black institutions are necessary for embracing black culture and enhancing the educational opportunities of students who, due to socioeconomic circumstances that bear on their preparation and secondary education, may not be accepted at other schools. Their plan involved continued support of all eight

institutions, transferring the administration of various professional schools to the historically black institutions, lowering the admissions standards at the three HBCUs and raising the admissions standards at the HWIs.

Because my research is geared toward basic writing programming, I have chosen to exclude articles that focus on institutional closings and financial disagreements in order to examine articles that specifically address access, admissions standards, and educational parity.⁵⁸ Therefore, of the sixty plus articles addressing various aspects of the *Ayers* case published in the *Clarion Ledger* from May 1994 to May 1995, I will examine the thirty articles that focus on the issue of admissions standards at Mississippi's universities. My readings of these documents reveal the power of the press in determining how institutions of higher education and the public label basic writers. By adhering to the culturally entrenched conceptual metaphors surrounding law, race, and standards of education, the press effectively limits what is said and who is allowed to say it. In addition, titles of articles, relative neutrality of language, and pictures that depict interested parties all suggest a level of fair treatment while simultaneously silencing the voices of black Mississippians.

One need only look at the titles of the articles in the *Clarion Ledger* to begin to understand the role the press plays in maintaining a hegemonic society. As mentioned previously, at this point in the *Ayers* trial there were two opposing plans for desegregating the state's university system. The titles of each article covering the state's proposals and witnesses are presented as statements of fact without qualifying clauses regarding who advocates these stances: "New Admissions Policies Urged in Ayers Trial"; "Standards for Admission must be Toughened"; "College Admissions Standards to be Argued in Court"; "State Must Meet Challenge Offered by Ayers Decree." Without

exception, however, articles addressing the concerns of the defendants are qualified with a clause that identifies whose opinion is being discussed: “Ayers Plaintiff: ‘Education is our Way Out’”; “Racial Inequity Starts at Elementary Level, Ayers Witness Says”; “ACT Fosters Segregation, Ayers Witness Says”; “Tougher Standards Will Hurt Black Colleges, Biggers Told”; “Ayers Ruling Inconclusive, Say Black Critics.”

These examples clearly illustrate one of the methods used by the press to differentiate more commonly accepted views from those of the plaintiffs. Articles emphasizing what is presumed to be the views of the white majority are titled based on ideological presuppositions. The reader sees only “Standards for Admission must be Toughened.” It is presupposed that the majority of the readership will agree with the concept that standards are necessary for quality education. It is important to note that the reverse is not true. There are no articles titled “ACT Fosters Segregation”; instead, writers and editors strategically attribute such statements to the plaintiffs—black Mississippians. The *Clarion Ledger* editorial staff aligns itself with the state of Mississippi by “tagging” statements and ideas that might be contrary to the beliefs of white, middle-class Mississippians through a discursive practice that clearly delineates between majority (conservative) and minority (liberal) views on education. Such a practice creates asymmetrical power relationships regarding the state’s role in adjudicating these views. The *Clarion Ledger* is adhering to the conservative stance on standards in education—the same stance being advocated by the government.

Another example of the conservative ideologies found in ordinary documents of the press involves references to the revised admissions standards proposed (and eventually enacted) by the state college board. The staff writers for the *Clarion Ledger* consistently refer to the changed admissions standards as “tougher” or “challenging.”

Representatives for the state describe the new standards in very positive terms, suggesting that revamped standards will improve quality of education for all Mississippi students. Standards are described by these witnesses as “extremely low,” “very modest,” and “raised slightly.”⁵⁹ Such descriptions attempt to undermine the plaintiff’s complaints that the standards do not take into account the cultural significance involved in standardized testing. In addition, the state’s descriptions of the modified standards are often in response to the plaintiffs’ suggestions that the new standards are too difficult for many minority students to achieve and therefore are not acceptable. In these examples, standards are defined in terms of what the state says they are NOT. For example, note the following phrases: “not elitist,” “not too difficult,” “not rigorous at all,” and “not too challenging.”⁶⁰ In one article, the lead attorney for the state claims that the plaintiffs are “proposing no standards at all” and that their plan “would admit black students with a junior high reading level.”⁶¹ These statements make it clear that the state is responding to an ongoing debate regarding standards in education.

These same standards are defined by the plaintiffs as “additional hurdles,” access being “reduced,” “not tolerable,” “discriminatory,” “illegal,” “punishing,” and capable of “eliminating access.”⁶² Note the significant change in vocabulary. The state describes the admissions standards using relatively passive adjectives that presume agreement on the part of the reader. The plaintiffs utilize adjective phrases associated with racism (discriminatory, illegal, punishing) and nominalizations that provide these standards with the potential for action. For black Mississippians, admissions standards are not impartial policies; rather, they are less than subtle means of further alienating minority students. This is not to suggest that black Mississippians advocate “lowering the bar” in education.

Rather, they are arguing against the conservative notion of standards in which standards are absolute as opposed to cooperative.

In the epilogue to *Moral Politics*, aptly titled “Problems for Public Discourse,” Lakoff asserts that a balanced (i.e., politically neutral) discourse is impossible due to the media’s approaches to political discussions and the format of news reporting (385). Lakoff convincingly argues that language is never neutral since it is always associated with a conceptual system. This means that “to use the language of a moral or political conceptual system is to use and to reinforce that conceptual system” (385). By reporting on the *Ayers* case using language associated with the conservative worldview regarding the role of standards in higher education, local news outlets reinforce that same conservative worldview.

It is also important to point out that the press determines who has the right to speak and who is excluded from this conversation regarding university admissions. As suggested by Clark and Ivancic, “vast numbers of people as individuals but, more importantly, powerless social groups are excluded from contributing to the collective store of knowledge, cultural and ideological activity, from the production and projection of ideas that fundamentally shape society” (55). The social group most affected by new admissions standards—minority students who are considered underprepared—does not have a voice in these articles. When black students are represented in these articles, it is through pictures of demonstrations and prayer vigils, not through words.⁶³ Clearly the press is capable of marginalizing the views of minorities interested in examining the discriminatory nature of education in Mississippi through strategic rhetorical moves that allow the press to seem fair-minded. Voiceless pictures serve to provide “balanced” coverage of the issues. Such rhetorical strategies literally create the subject positions

available to basic writers by suggesting that the public at large views specific admissions standards merely as tough; those, however, who view these standards as unfair, must be part of the minority. They must be black. More damning even are the voiceless pictures that accompany such rhetoric, for they suggest that these students are incapable of even expressing their concerns through the mainstream media outlets and must instead resort to protests and prayer.

These limiting subject positions assigned to basic writers are evidenced further in correspondence between private citizens and the state government in response to news articles addressing *Ayers*. In *Lives on the Boundary*, Mike Rose claims that “public discourse, heard frequently enough and over time, affects the way we think and lead our lives” (254). The following examples of correspondence between citizens of Mississippi and the Office of the Governor suggest that Rose’s assertion is correct. Not only are the conceptual metaphors present in legal and media discourse also threaded throughout ordinary documents, such as letters and proposals from citizens of Mississippi, but public discourse also has the power to discourage action and further silence the voices of Mississippi’s black citizens.

Conceptual Metaphors and Subject Positions Enacted in Political Correspondence

Not surprisingly, the press coverage of the *Ayers* case during this time period led to significant input from citizens of the state in the form of letters to the Governor’s office. Some of these letters, along with the Governor’s responses, were included in the files of Dr. Jeanne Forrester, Governor Fordice’s Education Advisor.⁶⁴ I was able to locate fifteen letters written during the state’s negotiations regarding how to implement the U.S. Supreme Court’s instructions to the state of Mississippi. These letters certainly adhere to the conceptual metaphors discussed up to this point; at the same time, they also

reinforce the ways in which both the powerful and the oppressed are limited by the subject positions that public discourse makes available to them. These archived letters become our first glimpse into how individual citizens respond to conceptual metaphors that help define underprepared students.

Of the fifteen letters in Forrester's files, only two are written in support of the plaintiffs, and private citizens from Mississippi did not write these letters. One letter is from Janette Wilson, the National Director of the Operation PUSH National Education Commission, requesting a status report and a meeting regarding the status of the state's HBCUs.⁶⁵ The second letter is from John Dunne, the Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice, offering to assist in the negotiation settlements regarding the Supreme Court's directives. I find these particular letters interesting for a number of reasons. First, there is no way to determine whether or not black Mississippians chose to write letters to the Governor regarding the outcomes of the *Ayers* case. I find it difficult to believe that black Mississippians, all of whom are named as plaintiffs in this case, chose not to make their opinions known to the state government. Assuming this is true, where are their letters? Why are the only letters remaining in these files that advocate on behalf of black Mississippians letters from civil rights organizations—letters that demanded some sort of response from the Governor? Of course, the idea that the letters were written and discarded is better than the alternative: perhaps I am wrong, and the letters were never written. For while one would hope that black citizens chose to voice their opinions regarding the case, it is also within reason to imagine that the black population who was denied access and education for centuries did not voice their opinions regarding the *Ayers* case as they found it unlikely that anyone would listen.

In the letter from PUSH, mentioned earlier, Wilson adheres to a rhetoric consistent with the Racism as Environmental Disease metaphor identified in the judicial opinions of *Ayers*. Wilson expresses concerns about the survival of black education. She ends her letter stating:

We are certain that you realize the importance of education to the *well being* of any community. The *elimination* of black colleges will have a *devastating impact* on the *deliverance* of African Americans from economic *stagnation*, moral *debility*, and sectional *isolation*. (January 7, 1993)

Certainly Wilson's rhetoric is consistent with what some might term "rights rhetoric," but I would argue that it is much more than that. Rather, the language of Wilson's letter is predetermined by the Racism as Environmental Disease metaphor that structures the most basic ways of understanding the minority experience in our society—in fact, most racially-charged rhetorics are responsive to conceptual metaphors that determine how we think about and discuss race. Wilson is not being dramatic in her choice of rhetoric, she is articulating her concerns regarding the impact of *Ayers* on HBCUs using metaphorical expressions that are culturally and cognitively entrenched.⁶⁶ Wilson's argument accentuates the link between education and the well being of a community, but, more importantly, the expressions she chooses in this particular rhetorical situation are meant to conjure images of stunted growth. As I propose in the previous chapter, this metaphor is often altered, resulting in "otherness" replacing "racism" in the metaphor; racial minorities, rather than racism itself, become the disease. In discussing the possibility of closing historically black institutions, Wilson, a civil rights activist, claims this metaphor and appropriates it in an attempt to articulate to Governor Fordice that the education

programs designed out of necessity for minority students are not the disease—they are the cure. Unfortunately, Wilson’s attempt to co-opt this metaphor is ultimately unsuccessful; it remains a disabling metaphor true to its conservative base.

I am interested in Wilson’s letter because it is one of the two letters included in Forrester’s files that advocate on behalf of the plaintiffs and also because it is the only letter that includes a response directly from Forrester. Every other letter contained in the files received a direct response from the Governor. The majority of the letters from Governor Fordice were form letters clearly written to appease opponents of the *Ayers* case. The introduction of the Governor’s standard response letter to these inquiries begins as follows:

I have read with much interest and appreciate your comments regarding the Ayers decision. The time has come to *bow to the inevitable and integrate the IHL* with minimal further outlay of fees and expenses. I *intend to offer the leadership necessary* to turn this into a positive step for Mississippi.⁶⁷

One cannot help but be cognizant of the problematic undertones of this paragraph as the Governor seems to be empathizing with citizens concerned about the implications of *Ayers* in his race-inflected suggestion that integration is inevitable, something to which he (and his fellow, presumably white, Mississippians) must “bow.” Just as interesting, however, is Fordice’s claim regarding his leadership role. According to Fordice, he intends to offer the leadership necessary to transform this negative turn of events (the integration of higher education institutions) into a positive step for the state. He is positioning himself as an advocate for the people, an advocate with the power to make

changes. Governor Fordice's response to Janette Wilson of PUSH, however, was to request that Jeanne Forrester respond on his behalf.

In her response to Wilson, Forrester introduces herself and states:

First of all, I would like to assure you that Governor Fordice is as concerned as anyone that actions and reactions to this case are not punitive in effect. He does, however, understand that significant changes are necessary. *Our actions from this office have been in line with our role which is fairly passive in nature. The Governor has no real authority in governing colleges and universities.* He has taken leadership in facilitating input from the lay population by creating a lay advisory panel. I am enclosing the panel's initial report. Additionally, we attend and monitor all meetings in regard to *Ayers*. (February 3, 1993)

Forrester's defensive posturing with the opening clause of this paragraph is disconcerting, but her description of the leadership role of the Governor's office is even more problematic given Fordice's platform of leadership when addressing white citizens. Two issues are evident: a) Governor Fordice claims to be a leader capable of promoting positives changes in education when communicating with white citizenry, but not when dealing with citizens concerned with the effects on the black population; and b) Governor Fordice, at least based on accessible files, chooses not to respond to citizens writing on behalf of the black plaintiffs at all, delegating these responses to his staff instead.⁶⁸

As I have already mentioned, only two of the letters included in Forrester's files were written in support of the plaintiffs. The remaining letters were inquiries regarding the Governor's proposed lay council of citizens and letters addressing individual concerns over various possibilities being explored to meet the U.S. Supreme Court's

demands regarding desegregation. For example, Robin Price, a twenty-two year old citizen of Mississippi, writes to Fordice's Chief of Staff, Andy Taggart. Price expresses concerns raised by articles in the *Clarion Ledger* reporting on the status of Jackson State University and the state's role in fulfilling obligations to HBCUs and issues of admissions standards. Price writes:

If we were to do as the Justice Department proposes this is what would happen next. Dr. Lyons would decide that the blacks are still being discriminated against and this time he is going to *want* more and more until there is nothing left to *give*. The next thing you know there will be no College Admissions Board. *All you will have to do is just sign up for the college of your choice. It will not matter what your high school grades were or what you scored on the ACT or SATS.* Now where will **that** leave our educational system? If we *give* Dr. Lyons and Jackson State University everything the Justice Department wants to, **what** will be the *challenge* of public education? There will no longer be any *goals* for our youth *to achieve* or any *challenges to overcome*. We **must** put a stop to this absurd proposal **now**; before it is too late for Mississippi's youth.

(italics mine, January 7, 1994)

Price's letter presents interesting correlations between standards of education and the state's discussions of how to compensate Mississippi's HBCUs in a paltry attempt to address *de facto* discrimination. She equates "giving" funding and programs to JSU with a lowering of educational standards. Essentially, Price is suggesting that truly integrating the educational system in a manner that redresses racial concerns will have long-term, negative effects on higher education in the state. Her second inquiry, "If we give Dr.

Lyons and Jackson State University everything the Justice Department wants to, what will be the challenge of public education?” clearly establishes her stand. Price’s adherence to the conservative metaphor for education contains racist dimensions, in part because her allusions to “giving” resources to historically black universities echoes the altered version of the Racism as Environmental Disease metaphor. Price’s rhetoric suggests that black Mississippians are threatening and representative of disease. When an environment you care about, in this case predominantly white educational institutions, is threatened with disease, you react. From her perspective, the idea of “giving” resources, of providing assistance, is not an appropriate reaction; building stronger fences, via academic standards, to ward off the threat of the disease is the most appropriate answer.

Another interesting document included in Forrester’s files is a proposal letter submitted to Ray Cleere, Commissioner of the MS IHL office, by J.P. “Jake” Mills, a member of the State IHL. The title page of the document is hand marked as confidential with copies being submitted to the Governor and Forrester. In this letter, Mills argues that the current problems facing the state can be addressed by changing the state’s funding formula. Mills claims that politically it would be almost impossible to close any of the HBCUs and that by changing state appropriations to universities based on student needs (as opposed to institutional needs), weaker institutions would be forced to close. Mills’ argument is clearly articulated using the conservative metaphor for education. He claims the following:

[A] change in governance and funding permits our university presidents to become full time administrators rather than part-time lobbyists...*Students are considered and treated like customers, and the beneficiaries are*

students, legislators, university presidents (free to do what they do best) and the Mississippi taxpayer. *Market forces would strengthen good programs and eliminate inefficient or unattended ones...* Public education in general and higher education in particular has almost reached divine status (everybody has to have a college education) and like all idols that *do not produce*, they always call for *more sacrifice*. (More money and children on the altar)...The only solution to the aforementioned problems is one that has worked consistently throughout history—*free people and free markets*. Nothing in history has worked better than *free people and free markets*. (September 9, 1992)

Mills' proposal is sustained by conservative conceptual metaphors of education as a market-driven enterprise. His emphases on *financial markets*, *customers*, *beneficiaries*, *production*, and *efficiency* accentuate clear notions of the business model of education. According to Mills, the solution to desegregating Mississippi's institutions of higher learning involves eliminating any sort of public funding that allows institutions that cannot support themselves to exist. By revising the funding formula, universities that have the lowest enrollment and graduation rates will be forced to close, and no one will be able to claim they were closed for racist reasons. Of course, the logic behind such changes can certainly be viewed as racist in its suggestions: Mills is assuming that the two most vulnerable institutions, Alcorn State and Mississippi Valley State, will be forced to close. Universities subsidize state funding with strong alumni bases. These two universities have the least number of graduates, and the degree programs offered are less likely to produce graduates in the top percentage of income brackets. Essentially, Mills is advocating that the state let these institutions die a "natural" death.

Another interesting aspect of Mills' letter is his emphasis on the divine. Mills claims that "public education in general and higher education in particular has almost reached *divine status* (everybody has to have a college education) and like all idols that *do not produce*, they always call for *more sacrifice*. (More money and children on the altar)." By emphasizing the problems that result when higher education is deified, Mills reinforces his belief that the current funding system allows educational institutions to make financial and moral demands of citizens. In a true business model, such as the one Mills is advocating, citizens in the form of students and parents are empowered to play this role. For Mills, and many other conservatives, our country's meritocratic system pays too much homage to education and not enough to hard work. To say that education has reached divine status is to claim that it is untouchable, in some cases unreachable, and, more importantly, all powerful. Mills is undermining the idea that education is part of the American Dream and claiming instead that it has become a false idol. When considered in context with his discussion of how to successfully eliminate black colleges, this insinuation is even more problematic. Mills's line of reasoning suggests that "good programs" will "produce" and therefore establish their right to existence. Black educational institutions, however, will prove to be false gods, calling for continued sacrifice, but not contributing to the public good.

Reading these letters written by citizens of the state of Mississippi provides further insight into the ways conceptual metaphors that affect our labeling of basic writers are threaded throughout our everyday texts. In addition, these letters reinforce the notion that standards of education are intimately yoked with the homogenous ideologies of the state in problematic ways. For example, in an interesting letter from Hardy Lott, a law partner in Lott, Franklin, Fonda & Flanagan of Greenwood, Mississippi, there is a

written note to Jeanne Forrester at the top of the letter that says: “Jeanne—This is cosmic—he read our minds. Please prepare a response for KF.” The letter to which this hand-written note refers involves Lott’s analysis and suggestions regarding *Ayers* after having read the Supreme Court’s opinions. In this letter, Lott states:

The Court’s opinion does not necessarily hurt us. It mentions a great many issues but does not mandate the way in which they should be decided but instead leaves the decision of them to the Circuit Court of Appeals and the District Court at Oxford to be decided by them after additional evidentiary hearings. As both of these Courts initially decided these issues in favor of Mississippi and as the Supreme Court has not mandated any particular finding by them, I see no reason to believe that their future decisions will be particularly harmful to us; and in fact there is a very good chance that they will be helpful. (June 29, 1992)

Lott’s analysis of the Supreme Court’s ruling regarding *Ayers v. Fordice* leads him to the opinion that the Court of Appeals and District Court are already in agreement with the state and therefore will not hand down rulings that are overly generous to the plaintiffs. More significantly, he draws a parallel between himself (as a legal professional), the Institutions of Higher Learning, and the state of Mississippi. By referencing the interested parties as “us,” Lott aligns the ambitions of these entities. This is to say, from his perspective, what benefits the state, benefits education as a whole. Therefore, the conservative, dominant ideology of standards will prevail in the local courts.

In her examination of private correspondence regarding writing instruction in nineteenth-century America, Susan Miller argues that such texts “reveal material and social exchanges on which both recognized and seemingly random cultural identities

depend” (*Assuming* 50). The letters discussed above provide historical, political, and material contexts that expose the culturally entrenched beliefs regarding minority students and students considered underprepared. They provide us with an understanding of the ways institutional narratives of basic writing programming are impacted by everyday public discourse. In addition, they reveal the ways conceptual metaphors in legal discourse are co-opted and reframed in our everyday discourse. Each of the conceptual metaphors identified in the legal discourse of the *Ayers* case is present in the everyday documents that discuss elements of the case, but the nature of the metaphor is determined by the author’s subject position. Each metaphor, however, is ultimately distorted so that it serves the interest of the dominant social group. The Law as Looking Glass conceptual metaphor symbolizes both the law as an honest depiction of American society and the law as an instrument capable of distorting our understandings of that same society. The Racism as Environmental Disease metaphor reasons that racism is a disease capable of infesting and destroying those that come in contact with it; however, the same metaphor can be used to suggest that other races are in fact the disease and society must protect itself from the social decay at hand. Finally, as I discussed in the previous chapter, moral and political metaphors regarding education also fall into binary categories. When viewed through a moral accounting metaphoric lens, education cannot uphold standards and nurture students simultaneously. It must do one or the other, and our culturally engrained reasoning about education suggests that standards, not nurture, result in educational success.

Consequently, these conceptual metaphors hinder effective institutional policies regarding basic writing programming. Our very way of reasoning about each of the issues involved in programs designed to support students who are underprepared—law,

race, and education—lands us in the double bind that is basic writing programming. All involved constituents utilize the same metaphorical epistemologies to determine the institution's responsibilities to basic writing students, and their cultural and conceptual means of reasoning about educational priorities ultimately lead to a privileging of conservative beliefs regarding standards of education. It should be no surprise, then, that our institutions speak out of both sides of their mouths when discussing basic writers.

Institutional Policies and Basic Writing Programming

The “socially significant meanings” of these entrenched metaphors in which student identities are appropriated and limited by commonplace documents in the press, the government, and responses by citizens, are reinforced in Mississippi's schools.⁶⁹

Clark and Ivanic cogently argue:

It is obvious that as the state provides education for its children, no state is going to want schools that subvert the purposes, values and ideals of that state. So, schooling can in that sense be seen as crucial in terms of reproducing the values and purposes and the socio-economic order of the hegemonic forces whose interests are maintained by political society. (45)

So, if the law, the media, and the citizenry all reason about issues that affect the nation's educationally underprepared via the same conceptual metaphors, and history shows us that conservative applications of these metaphors eventually prevail, it should not be surprising that institutions run by the state also forward limiting and typically conflicting messages regarding these students. The goals of education systems in this sense involve replicating class structures already in place; if the state does not value the educationally underprepared, state-financed institutions will not be rewarded for doing so. This means

writing programs and classes designed for this student demographic can be viewed as instruments of the state used to remind students of their positions as “basic” writers.

As I have demonstrated in this chapter, the conceptual metaphors nested in the public discourse associated with *Ayers v. Fordice* provide students with a conservative, standards-based model of education that simply does not allow for minority and underprepared students to make a space for themselves in academe. In addition, marginalized subjects who attempt to co-opt these same metaphors are unsuccessful because the objectives of the law, the political spectrum, the media, and the educational institutions are so similarly aligned. The state of Mississippi has predetermined the futures of these students despite its legal calls for access, and we, as compositionists, must reflect on how to address this disturbing fact. In my final chapter, I will argue that the rhetorical strategies employed by writing program administrators to define their basic writing programs plays the most significant role in combating these perceptions and determining how we re-envision basic writing programming and basic writers in academe today.

CHAPTER V

REFRAMING BASIC WRITING: RECOMMENDATIONS FOR BREAKING OUT
OF THE GHETTO

There are close connections between language, social structures and writing [which have] important consequences for the learning of writing. Access to writing is not equally available to all members of a society. Furthermore, the kinds of writing which children are taught and learn to produce at school may provide an insight into the value-system of our societies, particularly given the fact few children grow up to be writers in any significant sense of the word.

Gunther Kress 1994

A critique of our rhetorical ideology, however, suggests that the struggles in our disciplinary discourses are not esoteric, ivory-tower theories without social impact; they just may be the primary areas where hegemony and democracy are contested, where subject positions are constructed, where power and resistance are enacted, where hope for a just society depends on committed intervention.

John Clifford 1991

Freshman English will never reach the status of a respectable intellectual discipline unless both its theorizers and its practitioners break out of the ghetto.

Janice Lauer 1970

This project is, in essence, an institutional narrative. In it, I have attempted to trace the ways in which the legal discourse of *Ayers v. Fordice* and the conceptual metaphors that enable such discourse explicitly frame our perceptions of basic writers in Mississippi and limit the opportunities for successful basic writing programming. I am conscious of the fact that this work often concentrates on basic writing programming as

opposed to basic writers, and certainly student voices are necessary to fully explore the impacts of legal discourse and conceptual metaphor theory on basic writing programming. However, as I attempted to negotiate the social and ideological components of this project, I found myself surrounded by public discourse—that of the law, the state, the media, and the community—that ultimately silenced the voices of these students. The “close connections between language, social structures, and writing” were evident in ways that altered my perspective (Kress 2). The top-down nature of the effects of legal discourse on basic writing programming forced me to consider the social impact of our scholarly and institutional discourse as an administrator first, in an attempt to make room for what Clifford terms “power and resistance” in the classroom space.

Further examination of compositionists’ scholarship addressing basic writing programming reveals that the conceptual metaphors prevalent in the legal and public discourse of the *Ayers* case are also present in our field’s scholarly literature, our institutional policies, and our classrooms. For example, consider the role of the Law as Looking Glass conceptual metaphor in the following passage from Mike Rose’s *Lives on the Boundary*:

Through all my experiences with people struggling to learn, the one thing that strikes me most is the ease with which we misperceive failed performance and the degree to which this misperception both *reflects* and reinforces the social order. Class and culture erect boundaries that hinder our *vision*—*blind us* to the logic of error and the everpresent stirring of language—and encourage the designation of otherness, difference, and deficiency. And the longer I stay in education, the *clearer* it becomes to me that some of our basic orientations toward the teaching and testing of

literacy contribute to *our inability to see*. To truly educate in America, then, to reach the full sweep of our citizenry, we need to question *received perception*, shift continually from the *standard lens*. (205)

Rose does not refer specifically to the law as reflective of basic writers; however, his central metaphor of class and cultural boundaries includes the legislation that leads to the standardized testing of these students. Indeed, Rose recognizes the ways in which “social order”—a phrase that Rose certainly intends to include class, cultural, political, and legal boundaries—labels and predetermines how we see basic writers and how they see themselves. This is to say, our perceptions of basic writers are defined by the “standard lens” through which we view these students, and this lens is, in part, determined by legal discourse. Recognition of the implications of conceptual metaphors, such as Law as Looking Glass for basic writers is necessary if we are to successfully contribute to the educational goals of our students.

Likewise, while the legal documents referred to in this project metaphorize racism as an environmental disease, as one can see from the examples in previous chapters, this metaphor ultimately is altered so that otherness becomes the disease. Somehow, something gets lost in translation. The diseased domain of the metaphor remains, but it attaches itself to race and otherness, not racism. Due to society’s tendency to automatically label minority students as students most likely to be basic writers, the disease metaphor—as well as society’s fearful reactions to disease—extends to basic writers. For example, in her discussions of the impact of Mina Shaughnessy’s work on English studies, Susan Miller argues that “basic writing by disempowered, lower-class students who were suddenly placed where they too might receive the tests and principles of a privileged education has only briefly fallen under the gaze of the establishment that

hysterically avoids it” (*Textual Carnivals* 172). Miller’s emphasis on the ways university administrators “hysterically avoid” addressing the needs and rights of basic writers is only too accurate. Also, consider Mike Rose’s damning conclusion to “The Language of Exclusion” in which he argues that “the notion of remediation, carrying with it as it does the etymological wisps and traces of disease, serves to exclude from the academic community those who are so labeled. They sit in scholastic quarantine until their disease can be diagnosed and remedied” (352). Both Miller and Rose illustrate the pervasive nature of this disease metaphor as well as its social implications. Unintentionally breaking academic conventions and inhabiting the role of society’s “other” results in “scholastic quarantine”—the placement of these students in an academic leper colony that emphasizes the cruelty of our society regarding those who do not fit into the mold society desires for productive students. Once again, we see the cyclical connections between legal discourse, scholarly discourse, and the students we are attempting to serve.

Not surprisingly, the growth metaphor associated with what Lakoff terms the Nurturant Parent model in *Moral Politics* also dominates scholarship regarding basic writing. Indeed, in “Negotiating the Contact Zone,” Joseph Harris argues that three primary metaphors dominate basic writing discourse: growth, initiation, and conflict. Harris claims that the growth metaphor encourages a shift away from academic discourse and, instead, emphasizes the cultivation of students and the strengths they bring to the classroom. According to Harris, this particular metaphor, while positive in its efforts to embrace students’ strengths, is problematic because it represents basic writers as “somehow stuck in an early stage of language development, their growth as language users stalled” (29). I agree with Harris’ critique of this particular metaphor for basic writing instruction; however, I would also argue that the other metaphors he examines are

so closely related to the growth metaphor that they cannot be distinguished from the concept of growth. Indeed, each involves the assumption that students are part of a cultural landscape in which various constituents are fighting for survival (or, in many cases, simply waiting to see if they can at least avoid being noticed). In “Revising the Political,” Laura Gray-Rosendale critiques each of these metaphors as well:

The basic problem with the metaphors for Basic Writers’ situations that dominate our scholarship [is that] they betoken a troublesome willingness to ignore the fact that the students we call “Basic Writers” seldom, if ever, think of themselves as such—and that they rarely construe their tasks as writers in terms which accord closely with our preferred metaphors of “growth,” “initiation,” and “conflict.” (26)

Gray-Rosendale’s argument is a cogent one; it is rare that our students conceive of themselves as basic writers, and they certainly do not consciously conceptualize their writing tasks as part of their own intellectual growth. However, this does not change the fact that the major entities that have power over their futures in education—the judicial system, the legislature, university administrations, departmental entities, and teachers—utilize various conflicting conceptual metaphors to reason about basic writers and determine their actions in regards to these students.

In order to redirect the scholarly and institutional narrative that results from such discourse—in order to make room for students’ voices to be heard—we must concentrate on finding the open spaces in the rhetoric that surrounds basic writing students. I feel that writing program administrators (WPAs) are uniquely positioned to influence how basic writing is perceived at our institutions and in our communities; consequently, I am interested in concluding this project by examining the roles of WPAs in defining basic

writing for their institutions, communities, and students. WPAs, oftentimes by default, are students' primary designated advocates, and they are the most direct link between institutional politics and the classroom. WPAs are privy to many of the processes of institutional change that often are not visible to others, and this means they are responsible for producing the departmental texts that will help determine how basic writing is represented, branded, and taught at their individual institutions. Chris Anson and Robert Brown accurately point out the following about WPAs:

acutely aware that *all* relationships between writing programs and their broader institutional settings must be understood as socially constructed, highly localized, temporal, and interpersonal. In order to represent themselves, their programs, their beliefs, and the products of their investigations, successful WPAs must critically read their institutions as complex educational cultures with powerful habits of governance, disciplinarity, and interpretation. (emphasis original, 142)

The problem, as I have illustrated in this study, is that despite the cultural and institutional awareness among WPAs promoted by scholars such as Anson and Brown, we are unable to move forward and advocate for basic writing programming because the conceptual metaphors prevalent in legal discourse trickle down to the institution in ways that determine and limit how we think about and discuss basic writers even in our own scholarship. This said, I would like to forward my recommendations regarding how both my institution and the field of composition might respond to the limits we place on basic writers by virtue of our own conceptual metaphors. For while the experiences of Mississippi's higher education system are certainly unique in some respects, the discourse that describes basic writers and the programs that serve them is not.

The most obvious means of addressing the problematic subject positions available to basic writing programming and basic writers involves awareness of the power of discourse to enact and limit subject positions. In order to begin addressing the needs of these programs and students, WPAs must be aware of the conceptual metaphors employed by legal decision makers, politicians, members of the press, and community members to think about and discuss basic writing programming. I believe that critical discourse analysis of the ordinary documents that come into play at our institutions is necessary in order to remain aware of such cognitively and culturally entrenched beliefs regarding education. Stygall suggests the following:

by keeping the ideological in close focus, critical discourse analysis—with its attention to agency, action, stakes, and absence as well as presence—provides us with the analysis tools we need to assess our situations. Once we assess the local terrain, we can begin to challenge the unconsidered ideologies that govern public discussion about access to higher education.

(19)

Curricular design and textual production are two of the most significant contributions of WPAs. By paying attention to legal and public discourse regarding basic writing programming, we have the opportunity to reframe a discussion that up until now has had its perimeters set by others. A movement such as the one I am proposing will not be easy. Rethinking how we discuss education for the underprepared means risking stepping outside of the discursive box in a way that will no longer allow easy recognition of our educational goals. I mentioned in Chapter III, for example, that we cannot successfully reframe the conceptual metaphor Argument as War through a lens such as Argument as Dance because it will no longer be recognized as argument at all. As I have

demonstrated, basic writing programs are yoked to conceptual metaphors in problematic ways, and our success rests in our ability to see the open spaces in the rhetoric targeting basic writing programming and students in order to describe and address their needs. This is to say, the success of basic writing programs may very well depend on the ability of compositionists to liberate these programs (and students) from the pre-framed conceptual metaphors that currently define them. Surely, as the primary link between administrations and students, WPAs can revise how our basic writing programs are labeled and discussed, and, consequently, can make room for basic writers to define subject positions for themselves. Therefore, the remaining portion of this project is dedicated to analyzing the departmental and institutional discourse associated with both unsuccessful and successful basic writing programs.

Ayers, USM, and the Summer Developmental Program

As mentioned in the previous chapter, the most significant aspects of the new admissions standards in regards to remedial programming stemming from *Ayers v. Fordice* are the Summer Developmental Program (SDP) and required remedial courses offered during the regular school year at each university.⁷⁰ Based on the new admissions guidelines, students who are not eligible for regular admission have the opportunity (or are required, depending on your perspective) to participate in a spring placement process using an academic screening program designed by the IHL Board. This screening program, the Mississippi College Placement Exam, is used to determine whether a student should be placed in the SDP or enrolled in the regular freshman curriculum with or without academic support.

In brief, the SDP is an intensive, ten-week summer program in which students receive skills-based instruction in reading, writing, and math. At the half-way point

students are tested and have the opportunity to exit the program and gain admission to the university if their scores are high enough, continue with the program of study, or receive counseling regarding other educational opportunities such as vocational schooling and community college options. Mississippi's IHL mandates acceptable textbooks for the course, leaving instructors with very little leeway in terms of pedagogy.

Students who exit the SDP successfully are required to take intermediate courses in the subjects in which they are considered deficient as well as learning skills courses mandated by the IHL. From a distance, programs such as the SDP might be deemed encouraging. Often referred to as bridge courses, such programs appear to provide underprepared students with access and support. The problem with bridge courses, such as the SDP, is that they are completely separated from the academic units of the university. On a surface level the SDP represents access and alternative routes to admission for students. In reality, it is a means of garnering additional tuition and funding through a program that is not officially linked to the academic learning outcomes of any of the disciplines it is meant to "bridge." Students who enroll in the SDP do receive additional access and remediation, but they are also ghettoized. They are isolated from the very academic endeavors they are attempting to reach. In addition, upon successful completion of this program, students are still not accepted into the university. They are placed in yet another tier of remediation that may or may not be associated with academic units. This obvious separation of programs designed to ensure access and success from academic departments (designed to uphold standards of education) sends a strong message to students: We want you, but not really.

This message is even more clear, however, when one analyzes the institutional discourse regarding the SDP. At USM, the SDP recently transitioned from the Division

of Undergraduate Studies to the Student Success Center, a newly formed academic unit within the Provost's Office. This new university unit certainly has potential. It encompasses programs dedicated to first-year students, programs designed to monitor students' mental, academic, and fiscal well-being, and programs dedicated to recruiting first-generation college students interested in graduate school. By housing the unit within the Office of the Provost and referring to it as an "academic unit," university officials are attempting to provide institutional recognition and respect to the associated programs. However, the new website for the Student Success Center does not mention the SDP at all. The academic home for the SDP, a unit that according to their website is "dedicated to providing students in transition with the knowledge and skills on which to build a successful university experience," chooses not to advertise its association with this program in any way (n. pag.). Given institutional politics, there is no way to determine whether this means the program will slowly be dissolved as the *Ayers* mandate comes to an end, or if the Student Success Center simply does not want to publicly address and invite underprepared students to apply for the program. Indeed, since the transition, finding information regarding the SDP involves a massive internet hunt that ends with the Office of Admissions.

The following description of the SDP is listed on both the Mississippi IHL website and the University of Southern Mississippi's Admissions website:

The Summer Developmental Program is an intensive nine-week program developed to prepare students for success during their first year of college studies. The program concentrates on those high school subject areas (writing, reading, mathematics) that are crucial to success in first-year college curricula. To be eligible to enroll in the program, students must

first go through an on-campus interview, which includes taking a diagnostic test called the Accuplacer. Students who successfully complete the Summer Developmental Program will be allowed to continue in the fall term with mandatory participation in the Year-Long Academic Support Program during their freshman year. Students who do not successfully complete the Summer Developmental Program will be counseled to explore other post-secondary opportunities, including those offered by community colleges. (n. pag.)

There is nothing inherently wrong with this description. It is a brief summary of a program designed to address complex needs. However, this description, with its emphasis on standards-driven definitions of success, is not an invitation. It is not student centered. It is not even grounded in academic discourse. It is a required cut and paste explanation of a program that appears to be carefully placed so that it is not easily discovered. The problem with this institutional decision is that the students of Mississippi, specifically those at underperforming high schools, are handed brochures from the IHL that advertise this program. They are told in high school that they have a chance. They are provided with materials regarding the SDPs offered at each of the state's universities as well as information on financial aid for the summer programs. One can only imagine how these students interpret the fact that their "chance" is only highlighted in their home communities. The academic community they seek to enter does not seem to embrace them—only to accept their tuition dollars and to mask their discomfort with a changing institutional landscape by paying little attention to how they might meet the needs of these students. Discussions of the permanence of this situation (there have always been and there always will be students labeled by some as deficient)

must take place, and this discussion must be framed in a manner that will allow for a well-designed, pedagogically sound writing curriculum in which institutional players reconsider the purpose of their university based on their specific student demographic. This is to say, “We want you, but not really”—and the non-academic programs associated with such programmatic ideologies—is not an acceptable platform for education.

Arizona State University and the Stretch Program

At this point, I would like to highlight some programs that I believe are successfully working towards redefining how they meet the needs of diverse student populations by liberating themselves from the traditional rhetoric associated with basic writing programming. Arizona State University’s Stretch Program is one of the most well known models involving the piloting and implementation of a successful reformulation of their basic writing program. ASU’s Stretch Program “stretches” ENG 101 over two semesters in order to provide enrolled students with additional time and a real writing community. In a 2007 article in the *Journal of Basic Writing*, Greg Glau argues—and the program’s quantitative research proves—that this stretch program helps at-risk students become the best achievers in non-stretch classes and improves student retention rates significantly.

Arizona State University implemented its first-year composition stretch program in fall 1994. Basically, this model enables students who might be considered borderline based on test scores and previous written work to experience first-year composition “stretched over” two semesters and receive full academic credit for both semesters. The first semester students receive a writing-intensive, elective credit and the second semester they receive credit for English 101. Students are assigned the same readings and writing

assignments as all students taking English 101, but they complete two additional writing assignments. This allows these students the additional time necessary to fully comprehend, analyze, and execute the academic conventions expected of them at the collegiate level. In addition, students are able to establish a real academic and social community because they have the same instructor and classmates throughout both semesters. Instructors are afforded the opportunity and time needed to work with students on a much more individual basis and to plan their classes based on the needs of each individual group of students.

According to their most recent statistics, ASU students who enroll in the stretch program pass both the English 101 component of the course and English 102 at a 4% higher rate than “regular” English 101 students. In other words, the most at-risk students not only succeed because of the stretch program, but after one year, they actually outperform all of their counterparts. Perhaps more dramatically, ASU’s overall retention data is extraordinary. Of the students who take the first component of the stretch program, 61% more of the students register for the English 102 class than the students who took the previously offered English 071 (a non-credit, remedial writing course). This correlates to a retention rate of almost 400 students.

While I do not believe that all programs are replicable and appropriate for all universities, ASU’s Stretch Program was the model that we followed in our attempts to rethink basic writing programming at USM. One of the reasons we chose this model is that in spite of our concerns regarding certain elements of the program, ASU employed a consistent and effective rhetoric when discussing the program that could appeal to administrators, teachers, and students. On their website, ASU claims, “We see our basic writers as those who are capable of writing full, complete, and thoughtful papers, but who

also might need more time for revision, group peer review, [and] conferences with their instructors” (n. pag.). Immediately, readers are presented with a thoughtful and positive description of the student population that ASU is attempting to reach. This is not empty rhetoric about helping students “make successful transitions.”⁷¹ It describes the students involved as capable and thoughtful, but argues that the issue being addressed is time. In addition, ASU’s website describes the student demographic served by the Stretch Program by acknowledging how the public defines these students:

The *Stretch Program* works with those students who record the lowest standardized test scores, and nearly two in five come from groups traditionally under-represented at the university . . . in other words, our students are from groups who often are labeled "remedial" and "not up to college-level work". . . yet *Stretch* helps them succeed better than "regular" ENG 101 students. (n. pag.)

The decision to confront the standards-based discourse traditionally used to describe underserved students is significant. ASU’s program administrators acknowledge the labels already affecting these students and provide data regarding the success rates of the program. They are cognizant of the fact that these students deserve accurate information regarding their writing program and that the students themselves know they are labeled. The goal, then, involves informing students that they understand their frustrations, that they do not consider them to be less intelligent than their counterparts, and that they have developed a program that research shows is effective in helping some students achieve greater success.

The “stretch” model de-stigmatized what many students and faculty considered a remedial course by giving students elective credit for completing the first semester; and

by promoting the whole sequence as an *alternative* to English 101 and English 101 Honors, administrators at ASU found that perceptions of and overall satisfaction with all of their composition courses improved significantly. According to their website, Stretch is “not a remedial or ‘pre-101’ class; it’s a stretched-out and expanded version of ENG 101 (just like we have an ‘honors’ version of ENG 101 . . . and summer ‘versions’ of ENG 101)” (n. pag.). This rhetoric acknowledges the culturally engrained belief that non-traditional courses are automatically deemed remedial in nature. By positioning Stretch 101 as just another “version” of English, the WPAs at ASU are making a space for students to define themselves. ASU is doing an extraordinary job of branding this program and redefining for their institution, their community, and their students programmatic goals for their collegiate writers.

Community College of Baltimore County and the Accelerated Learning Project

Another program currently making waves in basic writing circles is the Accelerated Learning Project (ALP) at Community College of Baltimore County (CCBC). According to CCBC’s website, ALP is a “form of mainstreaming developed at the Community College Baltimore County. ALP attempts to combine the strongest features of earlier mainstreaming approaches and, thereby, to raise the success rates and lower the attrition rates for students placed in developmental writing” (n. pag.). Unlike ASU’s Stretch Program, participation in ALP is completely voluntary. Students who choose to enroll in the project are mainstreamed into specially-designated ENG 101 courses that are capped at twenty students. Twelve of those students are students who placed into ENG 101, and eight slots are reserved for students who placed into the remedial writing course. The course is conducted exactly like a traditional 101 course, but the basic writing students also enroll in a companion course that meets immediately

following the traditional 101 section. The companion course is taught by the same instructor who teaches the 101 course, and it serves as a required supplement for students enrolled in ALP during which students receive additional feedback, grammar instruction, and additional workshopping opportunities. Students receive credit for the 101 course but not for the companion course.

CCBC's data shows that students who enrolled in the ALP scored between fifteen and twenty percent higher than their counterparts who took ENG 101 after taking and passing the remedial course, and pass rates are more than double for those taking the ALP designated courses. The program also shows promising results in regards to retention, and the faculty researchers argue that one of the reasons for this success is that students in ALP are not required to spend so much time passing remedial writing courses before they get to the course that counts for academic credit. They do not get worn down and discouraged. Unlike ASU's program, ALP cannot show that students who enroll in the program also score higher in ENG 102. In fact, the pass rates for the second course in the sequence are the same for students who enrolled in ALP and the pre-writing course. Interestingly, ALP researchers suggest that stronger writing is not necessarily the goal in this situation, but that the goal is to produce students who write well enough to pass. This is not a stance I personally favor, but I am more than willing to accept the idea that CCBC's research regarding the academic and vocational goals of their student population leads them to believe this is a practical and theoretically sound outcome.

Another appealing aspect of the ALP is the way in which the department has chosen to brand their program. Their website provides a history of the program and provides a narrative describing the problems their students faced. In an interesting, if overly brief, account of the origins of the program, the website states the following:

In the 1960s and 70s, colleges and universities throughout America adopted "open admissions" policies. In many universities and most community colleges, anyone who wanted to go to college could. And shortly thereafter, as institutions began to develop or expand developmental education programs, an odd thing occurred. Developmental education was supported by many people, but for very different reasons. Those on the left saw developmental education as a *path to success*. Developmental courses would help underprepared students gain the skills they needed to succeed in college. Some people worried about open admissions. They worried that institutions would *lower their standards* because the influx of open admissions students wouldn't be able to *measure up to the rigors* of college-level courses. These folks were enthusiastic about developmental education because they saw it as a *gate* to keep students who couldn't do college-level work out of college-level courses. At the Community College Baltimore County we worried about our developmental program. Was it serving as a pathway to college success or as a gate to "chill students out" so they would give up?

(emphasis mine n. pag.)

This description of the ALP is posted on the site addressed to community members interested in learning about the program. The programmatic decision to address the polarized beliefs regarding basic writing programming in non-academic jargon that utilizes the conceptual metaphors already framing basic writing is effective. The decision of CCBC's program administrators to acknowledge the standards-based rhetoric of most remedial programming, perhaps as a means of shocking students into action, strikes me

as a strategic rhetorical move. This public description of the ALP intentionally addresses legal, institutional, communal, and student-held beliefs regarding remedial programming. In the same way that ASU employs rhetoric intended to allow students to define themselves in relation to various versions of writing courses, CCBC's rhetoric allows students to glimpse their positions in a historic, institutional narrative of education.

The reason, in my opinion, that both ASU's Stretch Program and CCBC's Accelerated Learning Project have achieved successful results with their student populations is because the faculty involved in designing the two programs considered 1) the missions of their institutions; 2) their local population of student writers; and 3) the rhetoric they used to market the programs to administrators responsible for funding such initiatives, faculty who might be interested in rethinking how they teach first-year students, the local community, and students potentially interested in such academic endeavors. I am not suggesting that the faculty members who designed these programs were consciously aware of the conceptual metaphors that frame basic writing programs and the consequent labels for basic writers. Rather, I think they recognized the desperate need for student-centered language that would allow all constituents to re-envision the basic writing enterprise at their respective institutions in a manner that would provide the students involved with the respect that any student pursuing higher education deserves. They deserve to be taken seriously, and they deserve educational efforts that do not constantly remind them of their supposed inadequacies. I believe that these efforts have the potential to be even more successful if compositionists are aware of the conceptual metaphors they are engaging and combating as they design their basic writing programs.

The University of Southern Mississippi and Composition I-Expanded

I mentioned in Chapter II that our desire to rethink our basic writing program was the catalyst for this research project examining *Ayers v. Fordice*. We began piloting Composition I-Expanded, based on ASU's Stretch Program, in Fall 2009. When we proposed and began piloting Expanded, I had just begun my inquiries into the *Ayers* case and its impacts on basic writing at my institution. We designed and proposed our new program based on concerns regarding our student data and a desire to try something new.⁷² At this point, our plans involved research and what I guess is best termed "pedagogical instinct." It was not until a year after we began piloting the program that my readings of the judicial opinions from the *Ayers* case led to my recognition of the conceptual metaphors at play in these documents. These discoveries, if you will, have led me to both applaud and critique the current design of our pilot program as well as the literature we have devised to portray the program. In this section, I would like to share specific thoughts regarding how faculty at my institution can continue to improve on our current efforts to rethink our basic writing program. Because the SDP is not associated with our department, I will concentrate on the remedial courses for which, as the Director of Composition, I am responsible.

First, I would like to point out the rhetorical moves I continue to believe are especially successful. I collaborated with two colleagues to design a brochure to present to students and parents at the University Preview sessions for incoming first-year students.⁷³ Our goal for this brochure was to brand the program as a six-credit, two-semester writing course that was "expanded" in every sense of the word. We wanted a student-friendly brochure that presented this program as an opportunity and an alternative as opposed to a punishment, or even a requirement. We wanted to ensure that all

literature relevant to the program clearly marked it as non-remedial. The two major tag lines for the brochure are “We want you to experience everything Southern Miss has to offer” and “Comp I-Expanded: More of what you are looking for.” We highlighted the benefits of the program in the form of questions: “Are you interested in joining a genuine writing community? Having a deeper, more meaningful experience in reading and writing?”⁷⁴ We wrote a letter to the parents of first-year students whose composite ACT scores placed them in our target population. We prepared letters for students enrolled in traditional ENG 101 who might be better served by the Expanded program based on assessment of an informal writing diagnostic performed the first day of class in all of our first-year writing courses. To be honest, we felt extremely confident about how students would respond to our program. We were going to make additional writing instruction cool.

We were wrong. It turns out that additional writing instruction is never cool. Our attempts to rethink the program, to “market” it effectively, and to offer genuine and sage advice regarding first-year writing was interpreted as false advertising for what was simply another take on remedial writing. I presented our first-year writing options at preview sessions all summer long for two summers. This presentation included descriptions of ENG 099, ENG 101, 101 Expanded, and Honors 101, and we inadvertently tested out self-directed placement in these efforts. At each session, I thought I modeled the cool English professor (if there is such a thing) as I explained the significant differences between writing in high school and writing in college in a jocular manner. I described the various course offerings but spent the majority of the session explaining the benefits of the Expanded program. At each Preview, I was asked at least once “So, is this just dummy English?” My immediate response to this ever-present

question was firm denial. I now realize that my attempts to reframe the discourse of basic writing were unsuccessful in recruiting students because they were not framed in ways that acknowledged students' preconceived notions regarding writing instruction. These students are bombarded with conceptual metaphors that have predetermined how they view basic writing courses no matter how they are packaged and presented to them. While scholars and administrators have the luxury of viewing basic writing programming from two very different cultural and political perspectives, first-generation college students, minority students, and underprepared students of all ethnicities do not see the "access" perspective of our rhetorical strategies. They see only separate, different, and unequal. They see ghettoization. In order to provide students with the opportunity to define themselves in academe, those of us responsible for generating the institutional literature targeting these students must provide students with an invitation to academe that is meaningful, supportive, and does not patronize students, AND we must acknowledge the culturally entrenched beliefs these students have about remedial education. If students are to define themselves, they must know that we understand how our culture has defined them and that we believe their self-definitions hold more weight.

Knowing this, my own goals and my recommendations to my colleagues involve not only adhering to my earlier advice regarding the significance of institutional missions, student populations, and institutional discourse, but also an overt attempt to rethink how we might provide needed services to basic writers at our institutions without ghettoizing them from their peers. The Expanded Program, based on ASU's award winning Stretch Program, is a good start for our institution. Students who enroll in this program are taught composition from the same premise as the traditional 101 students. They have the same learning outcomes, they use the same textbook, and they receive

academic credit for the entire sequence. My experiences with Preview students and the relatively low number of students who have chosen voluntarily to enroll in our pilot project, however, suggest additional modifications are necessary. Nonetheless, at this point, I would like to highlight some of our successes.

I would argue that the most effective aspect of our program involves our collaboration with the University's Writing Center. Using student-paid composition fees, we pay graduate writing tutors to work specifically with our Expanded students. The first semester we offered the course, we held "Writing Center Events" specifically for Expanded students. A Writing Center liaison attended each section of Expanded to explain our goals for the sessions that were strategically scheduled between students' sketches and first drafts, and students would sign up for twenty-minute individual tutoring sessions with tutors who had been trained specifically regarding the assignment at hand and the instructors' desired outcomes. We were excited about the possibility of these extra events, and we marketed them as part of the Expanded package—"More of what you're looking for."⁷⁵ We had a sixty percent no-show rate.

These events turned the corner, however, when we decided the no-shows simply made the events unproductive for students and financially draining for the Department. We decided to try again, but this time we worked with the Writing Center to design in-class tutor-led workshops. Students were put into groups, and one student from each group volunteered to submit his or her essay to the group and the Writing Center tutor assigned to the group prior to the event that was to be held during regular class hours. We were amazed at the effectiveness of these workshops and students' positive responses. Each group finally had the opportunity to experience a productive workshop that modeled how to effectively respond to a peer's writing. The second year of the pilot,

we decided that all Writing Center events would involve small group workshops but that we would vary the types of workshops with each event. Thus far, we have been extremely pleased with the results, and student surveys suggest that students understand just how much these sessions have benefitted their understanding of their revision processes. Our successes with these events suggest the need for guided, small group events for students who come to us with little practice in revisions processes—collaborative or otherwise. They also suggest that students desire additional insight regarding their writing, but they do not want it in the form of assistance that might be labeled as required tutoring. They want their experiences to be similar to their peers in every way possible. If they go to the Writing Center outside of class time, they want it to be their choice.

Another successful component of the Expanded Program is one of the additional writing assignments we require of the students. In our current first-year sequence, students in traditional ENG 101 write four essays and complete a final portfolio.⁷⁶ In Comp I-Expanded, students write three essays in the first semester, three essays in the second semester, and both semesters include a portfolio submission. One of these “additional” essays is a critical reflection essay regarding education. Students are required to read numerous texts addressing issues in education and formulate an argument about education that synthesizes the arguments of two of their readings.⁷⁷ This assignment, in part due to excerpted readings such as Jean Anyon’s “The Hidden Curriculum of Work” and Mike Rose’s “I Just Wanna Be Average,” pushes students to consider their own educational experiences. Students’ responses to this assignment are often dramatic as they realize that their perceptions of themselves as students and their own histories of education are products of a historically, politically, and culturally fraught

America. Obviously not every student had an epiphany regarding the role of education in his or her life, but the students who had these moments of insight cited this assignment as particularly beneficial to them in their understandings of the role writing will play in their college educations. My colleague and I designed this assignment prior to my grappling with the conceptual metaphors inherent in the texts that address these students. I am interested in rethinking this assignment as a rhetorical analysis that pushes students to analyze specifically how both institutions of education and students are labeled in various kinds of texts. Such an assignment has the potential to reveal to students the significant role discourse plays in labeling various “types” of students.

We are still in the midst of collecting data to determine what needs to be done in regards to the Expanded program. I am confident, however, that whether we fully implement the program or sideline it due to political and financial issues, my role as WPA will allow me to reproduce the most effective aspects of the program in productive ways for our student population. This project has provided me with a level of insight that makes my job both more manageable and far more complicated. I am fascinated by the ways in which analysis of legal discourse and conceptual metaphor theory can benefit composition theories and pedagogies, and I am committed to rethinking my program and my own classroom in response to what I have learned. I find Kelly Ritter’s call to action mentioned in the first chapter of my project especially engaging as I attempt to meet the needs of my constituents. I agree with Ritter in her suggestion that

we can work toward a better, more historically informed schemata for first-year writing programs, one that is cognizant of the role that local values play in shaping definitions of literacy, and that employs these values to wisely, equitably, and openly provide resources and instruction,

rather than disincentives or sanctions, for underprepared student writers.

(14)

Students in southern Mississippi, like students all over the country, come to our university with certain educational, political, and cultural values that must be embraced in our attempts to provide valuable composition courses. In order to incorporate our students' understandings of academic literacy into the curriculum of our composition courses, we must be willing to rethink our basic writing sequences, the legal and institutional politics that determine how these programs operate, and the discourse used to describe these courses so that students have the opportunity to critically reflect on their individual positions in academe. We must liberate our programs from ingrained conceptual metaphors that ultimately prescribe a standards-based model of education that silences students who are fully capable of defining themselves.

I would like to end this project by quoting a portion of Franz Kafka's parable, "Before the Law":

BEFORE THE LAW stands a doorkeeper on guard. To this doorkeeper there comes a man from the country and prays for admittance to the Law. But the doorkeeper says that he cannot grant admittance at the moment. The man thinks it over and then asks if he will be allowed in later. "It is possible," says the doorkeeper, "but not at the moment." Since the gate stands open, as usual, and the doorkeeper steps to one side, the man stoops to peer through the gateway into the interior. Observing that, the doorkeeper laughs and says: "If you are so drawn to it, just try to go in despite my veto. But take note: I am powerful. And I am only the least of the doorkeepers. From hall to hall there is one doorkeeper after another,

each more powerful than the last. The third doorkeeper is already so terrible that even I cannot bear to look at him." These are difficulties the man from the country has not expected; the Law, he thinks, should surely be accessible at all times and to everyone, but as he now takes a closer look at the doorkeeper in his fur coat, with his big sharp nose and long, thin, black Tartar beard, he decides that it is better to wait until he gets permission to enter. (n. pag.)⁷⁸

Of course, the man from the country in Kafka's parable spends the rest of his life outside the first gateway to the Law. He never achieves his aspirations of reaching the Law, as he chooses to accept the first gatekeeper's interpretation of the difficulties of the journey and his unpreparedness for such pursuits. As the man is dying he asks why no one else has come to beg admittance to the Law in all of the years he has waited, and the gatekeeper informs him that this first entry to the law was designed only for the man and reminds him that it was his choice not to continue on his journey. Kafka's depiction of individuals' willingness to accept others' interpretations of the law and their fears of pursuing information regarding their individual rights is alarmingly accurate, and it is indicative of Peter Goodrich's description of how the obedient subject responds to the law. Unfortunately, the man in Kafka's parable—the curious but obedient subject—is also the picture of our basic writing students. They are standing at the doors of higher education and being denied entrance by numerous gatekeepers—legal discourse being the first, but certainly not the last. When they choose not to continue their journeys, they are “indifferently” dismissed as unprepared for their educational pursuits, and, at the same time, as ignorantly obedient when they are willing to accept the “doorkeeper's” account of inaccessibility. Discussions regarding basic writing programming have had their

perimeters set by numerous gatekeepers—judges, university officials, and public citizens. It is my contention that by paying attention to legal and public discourse regarding basic writing programming, we have the opportunity to reframe a discussion that up until now has been defined by professionals who are not compositionists. Basic writing programs are yoked to standards-based discourse in problematic ways, and our success rests in our ability to see the open spaces in the rhetoric surrounding basic writing students and the programs that serve them in order to describe and address students' needs. Surely, our field can revise how our basic writing programs are labeled and, consequently, make room for a subject position that basic writers can define for themselves without having to wait for permission to “break out of the ghetto” and enter the gates of academe.

APPENDIX A

COMPOSITION I-EXPANDED PROPOSAL

OVERVIEW

As part of our mission to offer first-year composition courses that address individual needs and provide the most opportunity for success and retention, the Department of English at The University of Southern Mississippi is interested in piloting an expanded version of Composition I (English 101). Based on Arizona State University's very successful *Stretch Program*, we would target students who enter our university with a composite ACT score between 17 and 19. These students will register for Composition I-E (ENG 100) prior to taking a slightly modified version of traditional 101, allowing us to "expand" the traditional 101 class over two semesters, providing credit for both semesters.

THE PROBLEM

In order to help address student retention issues, the English Department has been working for over a year to identify risk factors for students enrolled in our composition courses. We have determined that one critical group is students with English ACT scores of 17-19.

Each fall semester approximately 1,000 students from across the disciplines enroll in English 101. According to USM's Institutional Research data from 2002-2007, 30% of these students scored between a 16 and 19 on the English portion of their ACT exam.¹

In compliance with IHL regulations, we currently require English 099 for students with an ACT index of 16 or below who might not be prepared for college-level writing. However, students with an ACT score between 17 and 19 are not well served by English 099, failing at a rate of 21%. But these same students fail at a disproportionately higher rate (13%) than their counterparts when they enroll in 101. Even more disturbing, of these students who take and pass English 099, 60% do not pass English 101 and 102 within 4 semesters. Further, of these students who pass English 101 (and did not take 099), some 35% do not pass English 102 within two semesters.²

These statistics clearly suggest that for students with an ACT index of 17-19, there is a gap between the English 099 and 101 curricula. When these students enroll in 099, they fail at a higher rate than students who are required to take that course. When these students enroll in 101, they fail at a higher rate than their counterparts with ACT scores of 20 and above. When these students successfully take and pass either 099 or 101, or both, they continue to have extremely low matriculation rates.

¹ The ACT scores of students enrolling in ENG 101 at USM from 2002 to 2007 are broken down as follows: 59.61% received a 20 or above, 9.45% earned a 19, 7.26% an 18, 6.33% a 17, 10.19% a 16, and 7.13% are categorized as unknown.

² The data regarding 099 students includes Fall 2002 to Spring 2005; data for 101 students includes Fall 2002 to Spring 2006.

While more difficult to measure, we believe that because these students seem ill-served by the way these courses are currently structured, their enrollment adversely affects the learning of the other students enrolled in both 099 and 101.

THE SOLUTION

It is our contention that a program such as the English 101 *Stretch Program* offered at ASU would benefit these students academically, and benefit the University socially and financially via improved rates of student retention and satisfaction. Indeed, ASU faculty members argue—and their statistics prove—that this stretch program helps at-risk students become the best achievers in non-stretch classes, and improves student retention rates significantly.

Arizona State University implemented its first-year composition stretch program in fall 1994. Basically, this model enables students who might be considered borderline based on test scores and previous written work to experience first-year composition “stretched over” two semesters and receive full academic credit for both semesters. The first semester students receive a writing-intensive, elective credit and the second semester they receive credit for English 101. Students are assigned the same readings and writing assignments as all students taking English 101, but they complete two additional writing assignments. This allows these students the additional time necessary to fully comprehend, analyze, and execute the academic conventions expected of them at the collegiate level. In addition, students are able to establish a real academic and social community because they have the same instructor and classmates throughout both semesters. Instructors are afforded the opportunity and time needed to work with students on a much more individual basis, and plan their classes based on the needs of each individual group of students.

Finally, the “stretch” model de-stigmatized what many students and faculty considered a remedial course—by giving students elective credit for completing the first semester; and by promoting the whole sequence as an *alternative* to English 101 and English 101 Honors, administrators at ASU found that perceptions of and overall satisfaction with all of their composition courses improved significantly.

According to their most recent statistics, ASU students who elect to take the stretch program pass both the English 101 component of the course and English 102 at a 4% higher rate than “regular” English 101 students. In other words, the most at-risk students not only succeed because of the stretch program, but after one year, they actually outperform all of their counterparts.

Perhaps more dramatically, ASU’s overall retention data is extraordinary. Of the students who take the first component of the stretch program, 61% more of the students register for the English 102 class than the students who took the previously offered English 071 (similar to USM’s 099). This correlates to a retention rate of almost 400 students. If USM saw an increase in retention even similar to that of ASU (say 40% of the students who completed our stretch program registered for and passed English 102), the university would retain an average of over 200 additional students per year. The financial and educational implications of this retention are considerable.

FINANCIAL IMPLICATIONS FOR USM

It is extremely difficult assessing the amount of money involved in student retention. The most obvious financial benefit to retaining students involves students as tuition-paying consumers. However, we must also consider the amount of money the University invests in each individual student, money that cannot be recouped if the student drops out. Individual student recruitment costs and instructional costs are lost, as well as costs associated with losing a member of the university community and its ramifications for other students, general student morale, and the wider community.

In November 2005, Noel-Levitz conducted a national research study on the cost of recruiting students at two-year and four-year institutions of higher learning in the U.S. With a total of 163 institutions responding, Noel-Levitz found that based on specific components of recruitment and admission budgets, the average four-year, public university spends \$455 per student on recruitment. As a conservative measure, if USM spends \$300 per student on recruitment, retention of the 200 previously mentioned students would result in a “savings” of \$60,000 a year.

According to data collected via IPEDS, and reported on College Results Online, USM spends \$7,205 per student, per year on instruction, academic support, and student services. The formula used to calculate this amount was developed by the National Center for Higher Education Management Systems. If we are able to retain 200 of the students we are losing through the cracks of our current remedial writing program, we are ensuring that almost \$1.5 million does not go to waste annually, but instead achieves the goal of our investment—USM graduates and alumni.

Finally, we need to look at financial numbers that involve actual monies coming into the University. Currently, full-time, in-state tuition is \$2,548 per semester. Excluding summer sessions and mini-sessions, this means Mississippi students pay \$5,096 per year in tuition cost. If we retain 200 students, USM will see over an additional \$1 million in incoming tuition per year.

IMPLEMENTATION STRATEGY

We hope to pilot six sections of “Expanded Composition I” beginning in Fall 2009 in order to assess the viability and impact of a Stretch Program similar to ASU’s at USM. To implement this program, we request that USM’s Academic Council approve a change in course name and numbering for what is currently English 100; and then approve a new course, “Composition I Expanded.” This course will provide three elective credit hours. Upon completion of this course, students will enroll in specially designed sections of ENG 101 in the spring semester.

Re-sequencing

Currently, English 100—a grammar course taught entirely online and that does not require any papers—is mistitled “Basic Composition.” Independent of this proposal, the primary instructor of this course has long advocated that the English Department change the title of this course to “Basic Grammar,” and renumber it English 110, to avoid

confusion by students who mistakenly believe the course to be part of the composition sequence. Doing so would then allow us to create a new course, English 100, “Composition I - E.” As previously noted, this course will be only offered in the fall, and will be linked to specially designated sections of ENG 101 in the spring, forming the two-semester sequence that will collectively be known as English 101 Expanded.

Enrollment/Registration

For the purposes of the pilot program we are considering two options regarding student registration. The first option would involve working with specific academic advisors to help ensure placement of the targeted student population. (For example, advisors in the athletic program have already expressed interest in having their students participate in the program.) The second option would rely on a directed self-placement model similar to those used nationally, in which the Director of Composition and other representatives of the English Department would participate more actively in the University’s Preview, providing students detailed information regarding the differences between all our courses, as well as administer a short self-assessment aimed at guiding students to select courses based on their previous writing experiences. Students would also receive flyers in their Preview packets, and the department’s website would provide additional descriptions of our courses aimed at helping students determine the class that will be most appropriate for them.

Additionally, all first-year composition courses now require an in-class writing activity at the beginning of each semester, which instructors use to make recommendations to students they feel might benefit by enrolling in 099. We will now tailor this process to target students who would benefit from English 101 Expanded. We feel this method will have a high degree of success, particularly as students who elect to switch from 101 to 101 Expanded will earn elective credit.

In any event, we will make our decisions regarding how best to enroll students in the pilot sections after further consultation with representatives from College Councils, First Year Experience, General Education, Admissions, and the Registrar’s Office.

Course Requirements

Students who enroll in ENG 100 will write three major papers; they will then write three papers in the 101 section of the program for a total of 8,000 words of finished, edited prose (the traditional 101 course requires four papers). As with traditional 101, the course will utilize a portfolio assessment approach, requiring students to revise essays from both semesters for submission at the end of the spring semester. The program will use the same textbooks and writing assignments as the “regular” English 101 course; students will simply complete two additional assignments aimed at extending their writing and critical thinking skills.

Grading

Upon completion of the first semester of ENG 100, students will receive a traditional letter grade. However, because we want to place emphasis on continuity between the two semesters, students will conference with instructors at the beginning of the spring semester to discuss their grades from the fall semester and the role their previous essays

will play in the 101 section of the course. In addition, the students' final portfolios will include revisions of their work from both semesters.

Class Continuity

As with ASU's *Stretch Program*, whenever possible, the students will have the same teacher for the first and section sections of the program, allowing them to have continuity and chemistry with their classmates and instructor. In order to achieve this goal as seamlessly as possible, we are working with the Registrar's Office to implement block scheduling for students who enroll in ENG 100 as well as special section coding for the 101 sections of the course. In addition, one tactic for making this transition as easy as possible will be to schedule the spring semester class for the exact same class periods as the fall semester. While we do not expect this to be problem free, the English Department is willing to take care of this internal coordination.

Programmatic Assessment

In order to assess the impact of this program, we will assess student and instructor satisfaction, learning outcomes, and retention data. We will devise instructor and student surveys to be completed at the close of both the fall and spring semesters in order to assess satisfaction. All students enrolled in each section of English 100/101 will submit their final writing portfolios and reflection journals to their instructors for final grading and assessment. Students in each course will receive information regarding programmatic use of their writing in the course syllabus. The protocol is already in place as the composition program randomly assigns codes to student portfolios from the 101/102 courses for purposes of programmatic assessment. The syllabus notation will be as follows:

Note: For program assessment purposes, some final portfolios may be randomly selected for institutional review at the conclusion of the semester. In such cases, portfolios will be collected anonymously from among all available sections of English 101-E. This review is intended solely to improve the quality of the curriculum, and will not affect your grade in any way.

We will also work with the Registrar's Office and Institutional Research to track the students who enroll in the course for purposes of gauging retention data.

CONCLUSIONS

According to the Educational Policy Institute (an organization founded in 2002 and dedicated to researching educational opportunity), academic preparedness—specifically in reading and writing—is a primary factor in student retention. It is our contention that the Composition I Expanded program will address these aspects of academic preparedness in the most influential way possible—by providing underprepared students entrance into a writing community that will encourage their growth and success in academia.

If our success is anything like what we anticipate, our hope is to fully implement this program on a wide scale in the 2010-11 academic year. When students elect to attend

Southern Miss, they will find that we offer them every chance of being successful through a variety of composition offerings: Introduction to Composition (ENG 099), Composition I (ENG 101), Composition I-Expanded (ENG 100/101), and Honors Composition (ENG 101-H). Our students are our priority and they deserve the best possible chance at success.

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APPENDIX B

COMPOSITION I-EXPANDED REPORT

The University of Southern Mississippi
 Department of English
Composition I-Expanded Report

Introduction

In Fall 2009, The Department of English piloted six sections of the newly designed *Comp I-Expanded* Program targeting proven at-risk students who received an ACT English score below 20. The course design requires students to take ENG 100E: Composition I-Expanded and a corresponding section of ENG 101: Introduction to Composition. The design of *Comp I-Expanded* involves teaching the same four assignments employed in the traditional 101 class, plus two additional assignments. The success of the course centers on three major premises: 1) that this particular student population needs additional time and attention in the composition classroom in order to begin to analyze and understand the academic conventions necessary in college writing; 2) that an extended course with the same instructor and peers will provide these students with an academic and social community that is imperative for retention; and 3) the *Expanded* model provides students with a credit-bearing course that does not carry the negative stigma students tend to associate with the ENG 099 coursework.

The original proposal for the *Expanded* program concentrated on the retention benefits and consequent cost-effectiveness of this program. After one year, we obviously cannot prove that our efforts have been successful in regards to retention. In order to collect this data in the future, the Registrar's Office designed a "student group" for the *Expanded* program. Office staff entered each student enrolled in ENG 100E into the student group, and we will be able to track these students for the rest of their USM careers. In addition, any student who withdrew from the first semester of the course was marked as "inactive" so that we can follow these students as well.

Instead, this report will examine the results of the writing assessment procedures, students' assessments of the course design, challenges, and recommendations. This early research suggests that students clearly benefit from linked classes that provide them with continuity, community, and additional resources.

Writing Assessment

In March 2010, the department performed the assessment measures necessary to compare the written work produced by *Expanded* students with written work produced by students enrolled in traditional 101. The assessment involved rating randomly selected portfolios from all sections of Comp I-Expanded and a corresponding number of randomly selected portfolios from traditional 101 courses. This protocol was already in place as the composition program randomly assigns codes to student portfolios from the 101/102 courses for purposes of programmatic assessment.

In order to ensure comparability of student writing, all *Expanded* students were required to submit their fall portfolios with a self-assessment essay and a revised version of their second project—a review essay. Portfolios from the traditional 101 class were collected for departmental assessment and portfolios that included this same project were pulled for use in this assessment. This means reviewers were rating the same assignment.

Reviewers were asked to rate students on a scale of 1 to 5 in regards to four different prompts with 5 representing “strongly agree” and 1 representing “strongly disagree.” Reviewers were asked to rate any question they did not feel could be answered with a rating of 0. Two reviewers responded to each portfolio, and a third assessor reviewed any portfolio in which there was a significant difference between the original two reviewers’ scores. These scores were then averaged.

The first two prompts were the GEC assessment questions, and the second two questions were based on the learning outcomes established by the composition program regarding the review assignment. The questions are listed below:

1. The portfolio demonstrates that the student is able to focus on a purpose and present ideas in an organized, logical, and coherent form consistent with that purpose.
2. The portfolio demonstrates that the student can observe conventions of Standard English grammar, punctuation, spelling, and usage.
3. The portfolio demonstrates that the student understands that successful evaluation depends on making claims and supporting them with evidence.
4. The portfolio demonstrates that the student understands the need to establish criteria appropriate to the situation and audience in order to perform successful evaluative writing.

The results of this assessment are extremely positive in regards to the quality of student writing represented by the *Expanded* students. **The *Expanded* students actually outscored the traditional 101 students in three of the four categories.** In fact, the only category in which traditional 101 students were awarded higher scores was the question regarding Standard Edited English. This isn’t surprising given that the *Expanded* students as a group have significantly lower scores on standardized testing. It should be pointed out, however, that ratings of the traditional 101 writings were higher than the *Expanded* in this category by only two-tenths of a point.

It is also important to point out that due to the design of the *Expanded* curriculum these students have the opportunity to revise their essays yet another time before submitting their final portfolios at the end of the spring semester. Therefore, it is likely that portfolio ratings regarding the *Expanded* demographic will be even higher at year’s end.

Student Assessments

Students have evaluated the program through three different channels at this point: Final Self-Assessment Essays, Fall Teacher Evaluations, and an anonymous electronic survey proctored in February 2010. Student responses from each of these are overwhelmingly

positive. In the survey conducted of all six sections this spring, 84.5% of students reported being “very satisfied” or “extremely satisfied” with the course.

One of our primary goals for this program was to create a community for a demographic of students that according to the 2008 IHL Report on Student Retention report their primary reason for dropping out of college is a lack of community. In this survey, 84.5% of students reported that the *Expanded Composition* program has provided them with an “incredibly supportive” or “very strong” sense of community.

Overall, student responses are extremely positive regarding the course design and implementation. These students are statistically the most at-risk students at the University and their feedback is imperative in ensuring future success of the program and the students who choose to enroll in it. A few examples of *Expanded* students’ responses to the program are below:

“I signed up for this class because of the initial desire to become a better writer. I wanted more out of the education I was receiving and I wanted to expand my capabilities as a writer...I believe it is safe to say that I have evolved in my writing as far as my confidence in my meanings, my focus on initial points, and how to execute it. When I come back in the spring I want to excel even farther.” –CY

“Writing has never been a strong point in my academics. I have barely gotten by in writing papers. I have slowly progressed through the years and that is why I chose to take this class. I knew that I needed help in writing and I knew that I would not lose anything by taking this class. I use to hate letting others read my papers and now I see the importance in it. I can only learn from my previous papers and this class has helped me in understanding the way to write a good paper and how instructors grade the papers I write.” –BL

“I am a more confident writer now than I ever was before. My idea of format has changed, now I take in consideration the criteria I am using and the type of essay I am writing. I will not use the same format for my personal essay as I do for an academic essay. My ability to recognize mistakes in my own writing and thinking through my assignments has given me confidence.” –BR

“Since I’ve entered Composition I-Expanded it’s been the best decision I’ve made in college. The class slows down to just the right speed to get the full grasp of the subject at hand to flesh out the full potential of my papers. Comp’s classroom is the perfect place for freshman like me that have moved to Hattiesburg from out of state without any of my major friends, and have comfortable environment with people you know to get feedback on your paper to make it better.” –JY

Challenges

As with any pilot project, there are challenges that need to be addressed regarding the program. The first involves enrollment. We scheduled six sections of *Expanded* and purposely left slots available for undeclared majors. There was some miscommunication with advisors so these slots were not filled. The department chose to allow all six sections to continue, but the smaller class size may have actually been problematic as opposed to beneficial in some of the sections.

The Preview presentations were extremely successful. In fact, these presentations allowed us, somewhat by accident, to pilot student-directed placement as students were given information regarding all first-year writing classes as well as concepts they needed to consider in making their choices for enrollment. It also allowed the Department the opportunity to impress upon incoming students the importance of writing in their college careers. In the future, however, it would be helpful to flag the folders of students we are targeting so that advisors can suggest to students that, at least based on ACT scores, this may be a program they should consider.

Debbie Hill ensured that these students could be followed and block scheduled into the spring section of their class. However, this required manual entry on her part. And while this may be doable with six sections, if we were to offer additional sections I think this would become problematic.

Finally, I would like to see the instructors receive additional training regarding the student demographic of these classes and how to most effectively incorporate grammar in context with writing as process instruction. Our TAs did fantastic jobs with these classes, but additional information regarding issues they may encounter in the classroom would certainly be helpful.

Recommendations

This program has the potential to make a significant difference in the educations of many of USM's students. As mentioned in the original proposal regarding this program, according to USM's Institutional Research data from 2002-2007, 30% of these students scored between a 16 and 19 on the English portion of their ACT exam. The preliminary data from this program suggests that students are being well served by the *Expanded* program. It has the potential to create stronger writers and retain a demographic of students that has extremely low matriculation rates.

The Department of English is confident that this program will be successful. However, due to administrative turnover and the current financial crisis, the department will not be scheduling *Expanded* sections for Fall 2010. We are requesting that Academic Council allow the department to place this program on temporary hiatus until a new Director of Composition is hired. When the Department is able to commit the resources and staff necessary for this program, they will contact Academic Council in advance and provide any necessary information at that time.

APPENDIX C

COMPOSITION I-EXPANDED BROCHURE



**expanded
composition
at Southern Miss**



**THE UNIVERSITY OF
SOUTHERN MISSISSIPPI**

*Southern Miss Expanded
Composition I*

Are you interested in...

- Joining a genuine writing community?
- Having a deeper, more meaningful experience in reading and writing?
- Developing stronger critical reading and writing skills?
- Forming more fulfilling relationships with your classmates and instructor?
- Gaining priority enrollment status for spring registration?

*We want you to experience
everything Southern Miss has to
offer!*

Expanded Composition I is a six credit hour sequence of classes that expands English 101 over two semesters. We designed Expanded Composition I to create real writing communities, as each student experiences our first-year composition course with the same teacher, the same group of peers, and even the same classroom for both semesters.

Students in these classes will benefit from having more time to develop critical writing and reading strategies that will be crucial throughout their academic careers. The expanded format also gives students more opportunities to interact with The Writing Center, The Speaking Center, University Libraries, their instructor, and each other - all while earning three elective credits and satisfying the English 101 requirement!

*Expanded Composition I:
More of What You're Looking For!*

Questions? Contact Joyce Inman, director of composition, at joyce.inman@usm.edu or Ann McNair, basic composition coordinator, at ann.mcnaire@usm.edu.

AA/EOE/ADA 60653.5037 5/11

APPENDIX D

CRITICAL ARGUMENT ASSIGNMENT

Project Three: Critical Argument Essay

Throughout your work this semester, you have been asked to consider similarities and differences in the way people perceive things, to open yourself up to new and sometimes startling ways of thinking and feeling about various topics, and to use writing as a means of connecting with yourself and with others. This third project builds on these earlier efforts by asking you to critically read and analyze a series of texts written by different people on the topic of Education, and to respond to these diverse views in an essay that tries to say something important. People often call this process of creating something new by weaving together ideas and beliefs from different sources synthesis, and in a very real sense, this project asks you to do exactly this: to construct an argument about some aspect of American education that you find interesting, troubling, or problematic in some way, using other texts and your own experience as support for your claims.

Getting Started: As Ballenger astutely points out, “writing is a means of thinking and learning, so when your writing comes into contact with the writing of others, the conversation illuminates them both.” So to begin this project, you will want to carefully read, analyze, evaluate and reflect on the different articles on education provided in the course readings. That is, practicing many of the critical reading strategies discussed in Chapter 2, “Reading Rhetorically,” your first step will be to figure out not only what each writer is trying to say about education, but how they go about doing so, and why. And just as writing your Review Essay for Project Two may have required you to temporarily suspend your own opinions about the thing you were writing about in order to discover standards that were appropriate for your audience and context, to do this project well, you may also need to step back from your own feelings about education in order to understand each writer’s perspective and reasons for approaching the topic in the ways that he or she does.

This is not to say that your feelings and thoughts about what you read are not important! On the contrary, whatever argument you end up making will certainly be motivated by what you want to say about education, rooted in your own experiences. But your paper must also be informed by what other people have thought, felt, and written about the topic—which means you’ll need to spend some time trying to figure out what these other people are really saying. Or as Ballenger writes in Chapter 8, “The best argument essays make a clear claim, but they do so by bowing respectfully to the complexity of the subject, examining it from a variety of perspectives, not just two opposing poles” (287). Indeed, it may be useful to think about this project as an attempt to locate yourself in an ongoing conversation about education being had by the other writers we are reading, a way of engaging what other people are saying and thinking about the topic. And just as you would never just barge into the middle of a conversation a group of strangers were having at a party or other social gathering without first getting a sense of what they were talking about, in order to write a successful argument for this project, you’ll need to spend some time figuring out this broader discussion before exploring your reactions to it. Once you have a good sense of what these writers seems to be talking about, and have

spent some time exploring your own thought and feelings, it might be helpful to consider places in these readings where the writers seem to be agreeing with each other (or at least talking about similar things), as well as places where they seem to have significant differences. Again, because synthesis is the process of bringing different ideas together to form some new contribution, often the best arguments are to be found in places where texts seem to either naturally fit together, or in bridging the gaps where they seem to be at odds with each other. That is, if writing a good argument is really like joining a conversation that's already in play, one of the keys to success will be finding a good place to start, a moment in the discussion that doesn't quite seem to make sense to you, or where you can try to resolve or expand on something that's already been said.

Rhetorical Considerations: Whatever argument you end up choosing to make about education, your audience for this essay will be someone who has probably never read the articles you will be discussing. So while your primary goal will be to persuade your readers to share your particular point of view on the topic, you'll also need to spend some time summarizing and explaining the texts you use in support of your discussion, as well as provide any additional background information your reader might need to make sense of what you are trying to say.

There are many different ways to go about organizing a critical argument like this, and we will certainly discuss several different strategies in class. But keep in mind that most successful arguments tend to be organized around a set of clearly stated questions, concerns, or claims made near the beginning of the discussion, with most of the rest of the paper focused on answering these questions, resolving these concerns, or explaining and supporting these claims. You should also think carefully about how to guide your reader by offering strong transitions between paragraphs. As always, your introduction and title should try to capture your reader's attention by focusing on the core themes or ideas you are trying to make.

Putting It Together: You must incorporate at least two of the readings on education we have covered in this unit of the course, and you should provide proper citation for any passages you quote, paraphrase or summarize from these texts. Your essay should be 4-5 pages (approximately 750 - 1000 words) and will be due *Friday, November 20th*.

Student Learning Outcomes: After successfully completing this project you will: 1) be more familiar with a range of critical reading strategies; 2) be able to employ a number of these strategies to comprehend and analyze complicated texts; 3) be better at incorporating material from textual sources in support of your claims; and 4) be more proficient at setting up and sustaining an argument.

NOTES

1. As quoted in the epigraph to David Bartholomae's "Inventing the University."

2. I am conscious of the validity of the numerous arguments regarding labels for underprepared students (i.e., remedial, developmental, basic, amateur, novice), but my official title when I began this project was Basic Writing Coordinator. In addition, at a recent statewide conference we were informed that the IHL considers the summer bridge programs instituted at each public college following the Ayers case to be "developmental" programs and that courses that follow these summer programs, but precede traditional first-year programming, are to be labeled "basic." Hence, I tend to use the term "basic" as it is the preferred term at my institution.

3. See Judith Levi's "Language and Law: A Bibliographic Guide to Social Science Research in The U.S.A."—a study commissioned by the American Bar Association—for the most comprehensive list of studies in language and law. It should be noted, however, that the document does not include critical commentary or summaries regarding the entries; they are simply listed and categorized.

4. Numerous scholars continue to point out that a) remedial writing courses have a long and varied history prior to open admissions (see Horner, "Discoursing"; Soliday, "Politics"; Gray-Rosendale, "Inessential"; Ritter, "Before"), and that b) Shaughnessy's unpublished works provide more helpful insight into the realities of her program and the institution.

5. See Shaughnessy, *Errors*; Perl, "The Composing Processes"; Flower and Hayes, "A Cognitive Process"; Lunsford, "Cognitive Development."

6. See Bartholomae, “Inventing the University”; Lu, “Conflict”; Gray-Rosendale, “Rethinking”; Mutnick, “Writing in an Alien World.” In addition, I would be remiss if I did not mention the “students’ right to their own language” movement that occurred during this same period. However, while I recognize the importance of this debate as yet another unresolved issue in our field and acknowledge the inherent relationship between institutional expectations and a lack of response to rights rhetoric and student language, my focus for this review of literature is on the legislative and institutional language surrounding and constituting basic writing. And while these conversations cannot truly be separated, an analysis of the language regarding this movement is beyond the scope of this project.

7. Consider also the following statement by Tom Fox in “Working Against the State”: “One of the most distinctive features of intellectual work in composition is a focus on the relationship of the discipline of composition to the academic institution in which it is housed” (91).

8. See specifically both Terrence Collins and Karen Greenberg’s responses to “Apartheid” published in *JBW*.

9. See Marilyn Sternglass’ *Time to Know Them: A Longitudinal Study of Writing and Learning at the College Level* (1997).

10. Platonic idealism centers on the belief that reason and wisdom are the ideal form of governance as opposed to rhetoric and persuasion. In the Platonic dialogues, Plato critiques the sophists referring to rhetoric as an ignoble art of persuasion in relation to justice and the public sphere. Aristototele’s writings subordinate rhetoric as simply one means of persuasion relying instead on permanent truths and syllogistic logics.

11. Linda Brodkey is perhaps the most well-known advocate of the study of judicial writings in the composition classroom. Her failed attempt to incorporate judicial opinions as the major texts in her first-year writing courses at the University of Texas at Austin eventually received national attention when Maxine Hairston published her 1992 article “Diversity, Ideology, and Teaching Writing” indirectly critiquing such pursuits as overtly political acts that do not serve the best interest of students. See also the dissertation of Glenda Conway, which examines the language and ideology inherent in judicial opinions and advocates the use of U.S. Supreme Court judicial opinions as texts in composition classes.

12. This emphasis on the role of narrative in judicial opinions leads White to argue that “law is at its heart an interpretive and compositional—and in this sense—a radically literary activity” (91).

13. The *Oxford English Dictionary* provides the following definitions for “remedial” as they pertain to law and legislation: 1: “affording a remedy: intended for a remedy or for the removal or abatement of a disease or of an evil.” In addition, the term “remedy” is defined as: 1.4: “the legal means to recover a right or to prevent or obtain redress for a wrong: the relief (as damages, restitution, specific performance, an injunction) that may be given by a court for a wrong; 2.1: to give legal redress to: render justice to.” The *OED* defines “remedial” pertaining to education as 2: “concerned with the correction of faulty study habits, the improvement of skills imperfectly learned, and the raising of a pupil’s general competence.”

14. Conley and O’Barr’s distinction between the terms “language” and “discourse” may be helpful at this point, as I tend to use them interchangeable when

discussing written text: “These related terms have multiple meanings in the academic world; they are synonymous for some purposes but distinct in other significant ways. Language is the more straightforward of the two. Language includes sounds, units of meaning, and grammatical structures, as well as the contexts in which they occur...The term discourse has two senses, one linguistic and one social. The former sense, which overlaps with language, is illustrated by phrases such as everyday discourse and courtroom discourse, the latter by phrases such as the discourse of psychoanalysis and the discourse of human rights. In the linguistic sense, discourse refers to connected segments of speech or writing, in fact to any chunk of speech or writing larger than a single utterance...Discourse analysis is the study of how such segments, or texts, are structured and how they are used in communication” (6).

15. See USM Institutional Research Data, Factbooks.

16. According to a survey conducted by composition database, CompPile.com, Mississippi, Texas, Illinois, South Carolina, Idaho, and Maryland are states in which a state board of education determines policies regarding developmental coursework.

17. *Ayers v. Fordice* was originally titled *Ayers v. Waller* (1975). The changes in governors led to changes in case name throughout the years: *Ayers v. Allain* (1987), *Ayers v. Maybus* (1991), *Ayers v. Fordice* (1992), *United States v. Fordice*, and *Ayers v. Musgrove* (1996). The majority of legal scholarship refers to the case overall as *Ayers v. Fordice* as that was the case name when the U.S. Supreme Court heard it. Hence I will refer to the case as either *Ayers* or *Ayers v. Fordice*.

18. *En banc* is a French term used when referring to a legal case in which all judges of the court will hear the entire case, as opposed to a panel of the judges. U.S. Supreme Court cases, for example, are always tried *en banc*.

19. *Certiorari* in our judicial system occurs when a higher court returns a case to a lower court to review the lower court's judgment for legal error.

20. See Mississippi IHL website for Ayers settlement.

21. *Ayers v. Fordice*, 4:75CV009-B-0 U.S. District Court ND, MS (1995).

22. See Glenda Conway's 1996 dissertation, *Discourse in the Judicial Opinion*.

23. In *The Language of Judges*, Lawrence Solan states, "judges, in their judicial opinions, regularly write to create the impression that their decision is 'the only possible decision,' one derived by applying readily ascertainable neutral principles to the set of novel events that is the subject of the dispute being adjudicated" (13). According to Solan, judges are caught in the double bind of admitting that the judicial process is imperfect in order to sustain legitimacy, but losing that same legitimacy if they do not write with confidence regarding their particular ruling.

24. In *Law and Literature: A Misunderstood Relation*, Richard Posner argues that legal opinions are unavoidably rhetorical and "the reason why rhetoric or style is important in law is that many legal questions cannot be resolved by logical or empirical demonstration" (286). Hence, Posner recognizes the ideological nature of judicial rhetoric and its role in defining justice. This recognition leads to a pragmatic theory of the ways in which judicial opinions differ significantly from literature and from White's notion of the judicial opinion as narrative. Posner divorces a literary approach to the law from a rhetorical approach to the law, arguing that "literature is not concerned with

establishing the truth of propositions, at least by the patient marshaling of rational arguments and rationally probative evidence; it is not (not generally, at any rate) didactic, as works of scholarship or political advocacy are” (272). Ultimately, Posner argues that judicial opinions are indeed rhetorical, but they are not always literary.

25. It is important to note that critical discourse analysis is not a research method, but rather an approach to studying discourse that may use any number of research methods. For this reason, van Dijk suggests the field refer to CDA as critical discourse studies. I would argue that while this label might cause less confusion regarding issues of methodology, it might also lead to further confusion between CDA and cultural studies.

26. See Noam Chomsky’s appraisal of such research as having “nothing to do with linguistics” and Lester Faigley’s argument that the linguistic and ideological roots of discourse analysis make it inapplicable to the field of composition.

27. Gail Stygall is perhaps the most recognized proponent of legal discourse analysis in the field of composition. Stygall’s primary research focuses on trial language and divorce proceedings and utilizes analytic methods drawn largely from the field of sociolinguistics. Stygall suggests the use of narrative discourse analysis as a means of examining the “the attempt to produce a persuasive narrative, study the response made to that narrative, and to make some judgment about its impact on an adjudicator” (“Narrative” 279). In her analyses of textual narratives of divorce, Stygall concentrates on the typical features of narrative found in divorce affidavits and then expands that analysis towards cultural and gender narratives and how they are adapted to the legal and cultural contexts of the stories told about marriage and divorce.

John M. Conley and William M. O'Barr argue that "talk" is the most important linguistic element of the law as a microdiscourse that then gets reduced to written opinions. They rely on Foucault's theories of discourse as "not simply talk itself, but also the way that something gets talked about" (7). In an effort to understand how discourse practices reflect and subvert social hierarchies and legal power, Conley and O'Barr examine rape trials, divorce mediation and civil disputes through conversational analysis looking specifically at linguistic elements such as turn-taking, silence, question forms, and topic management. They conclude that not only does language variation have social consequences in legal settings, but "*language is legal power*" (emphasis original 14).

In her 1996 dissertation, Glenda Conway examines "selected judicial opinions for the ways in which representations of voice convey ideologically coded images of individual litigants, the governing communities in which they reside, and the legal structures that regulate and govern their behavior" (3). Utilizing rhetorical analysis and Bakhtin's theories of dialogism, Conway ultimately argues that losing litigants in U.S. Supreme court cases risk "textual invalidation" of their voices.

In his examinations of judicial writings, James Boyd White argues for a method of "translation" as a means of looking at how we literally build our identities and communities through language. Ultimately a form of rhetorical analysis, White points to numerous opinions of the U.S. Supreme Court and analyzes the ways judges use language in relation to their own ethos and their view of the constitution. He argues that

the central activity of law is the reading of texts—cases, statutes, regulations—and their imperfect reproduction and arrangement, in compositions of our making, in contexts to some degree distinct from

those in which they were made. It is in fact a kind of translation, and this knowledge should shape both the way we engage in it ourselves and the way we judge the productions of others. (*Justice* 241)

White's translation methodology leads to his argument that the linguistic and rhetorical choices observed in judicial opinions are ultimately more informative than the actual results of a case.

28. James Paul Gee argues that method always goes with theory and they cannot be separated despite the attempts by some researchers to teach methods as rules and strategies capable of standing alone (*Discourse Analysis* 6).

29. Gee differentiates between discourse with a "little D" and Discourse with a "capital D." Discourse with a capital "D" is "composed of distinctive ways of speaking/listening and often, too, writing/reading coupled with distinctive ways of acting, interacting, valuing, feeling, dressing, thinking, believing, with other people, and with various objects, tools, and technologies, so as to enact specific socially recognizable identities engaged in specific socially recognizable activities" (*Social Linguistics* 155).

30. See George Lakoff's *Moral Politics: How Liberals and Conservatives Think* (1996).

31. "Memorable Quotes from *Mississippi Burning* (1988)." IMDb. Web. 15 Feb. 2009.

32. *Ayers v. Fordice*, 4:75CV009-B-0 U.S. District Court ND, MS (1995).

33. Lakoff and Johnson denote the conceptual metaphor by capitalizing the first letter of each of the primary domains. I will do the same in this text for the purpose of consistency.

34. See Lakoff and Johnson's *Metaphors We Live By* (2003, 2nd ed.).

35. If, for example, we concede to Lakoff's argument that the prevailing conceptual metaphor for political rhetoric of liberals and conservatives is "nation as family" and this requires the complimentary image-schema of "government as parents," do we argue that the university too is a family? If so, who takes on the metaphorical role of parents in this conceptualization? How does the government—specifically the judicial branch—figure into such a proposal? In what ways do the conversations mirror those of political pundits? In what ways does such a conceptual metaphor conflict with modern attempts to conceptualize the university as a business and students as consumers?

36. As early as 1926, Benjamin Cardozo argued that "metaphors had to be narrowly watched, for starting out as devices to liberate thought, they end often by enslaving it." For more recent works, see Bernard J. Hibbitts' "Making Sense of Metaphors: Visuality, Aurality, and the Reconfiguration of American Legal Discourse" *Cordozo Law Review* (1994) and Austin Sarat's "A Prophecy of Possibility: Metaphorical Explorations of Postmodern Legal Subjectivity" *Law and Society Review* (1995).

37. Winter bases his argument on what he terms a "theory of imagination." He cites Lakoff and Johnson as "pioneers" in of cognitive research regarding human intelligence and imagination. He outlines his theoretical perspective along three principles: "1. Human thought is irreducibly imaginative. 2. Imagination is embodied, interactive, and grounded. 3. Imagination operates in regular, orderly, and systematic fashion."

38. See Gail Stygall's "Unraveling at Both Ends: Anti-Undergraduate Education, Anti-Affirmative Action, and Basic Writing at Research Schools." *Journal of Basic Writing* 19.2 (1999): 4-22. Print.

39. It may be helpful to consider Humpty Dumpty's phrase in its entirety given its emphasis on language and control:

'When *I* use a word,' Humpty Dumpty said in rather a scornful tone, 'it means just what I choose it to mean—neither more nor less.'

'The question is,' said Alice, 'whether you *can* make words mean so many different things.'

'The question is,' said Humpty Dumpty, 'which is to be master— that's all.'

40. From this point forward it should be assumed that I will italicize the linguistic expressions that correspond to various conceptual metaphors in relevant passages, and the emphasis is not in the original document unless noted.

41. Consider also the numerous texts that reference law and truth, such as Dennis Patterson's *Law and Truth* (1999).

42. *Ayers v. Allain*, 88-4103 U.S. Court of Appeals Fifth Circuit (1990).

43. Source: OED. Demean (v): 2. To handle, manipulate, or manage

44. In *Green v. School Board of New Kent County* the U.S. Supreme Court held that New Kent County's freedom of choice plan was unconstitutional because it did not provide a system of admissions to public schools on a non-racial basis.

45. Source: OED. Reflect (v): etymology "Sense 4 apparently shows a sense development within English, and probably results from the sun and reflective surfaces

such as mirrors, etc., being considered alike as immediate sources of light, without regard as to whether that light is direct or reflected.”

46. Justice Thomas is considered by many to be one of the most conservative justices currently serving on the court, and perceptions of his rulings as conservative and textually based would lead some to question his concurring opinion in the *Ayers* case. In addition, we cannot ignore the fact that Thomas was the lone African American serving on the Court. Thomas’ opinion serves as an effort to remind the lower courts of the significance of historically black colleges and universities to black culture and education. In addition, press surrounding the case consistently alluded to the significance of Thomas’ opinion. Prior to the U.S. Supreme Court hearing, George Cochran, a law professor at UM, was quoted in the *Clarion Ledger* saying “This will be a case in which everyone...will be looking at Justice Thomas.” (November 10, 1991)

47. In *The White Racial Frame*, Joe Feagin argues that the conceptual metaphor Racism as Disease is faulty because American culture was built on racism. He argues that this metaphor assumes that Nation as Body was once healthy, and has been invaded by disease (yet another common conceptual metaphor relevant to our discussions). He attempts to articulate a Structural-Foundation metaphor of racism in which racism is actually the “structural foundation” upon which the United States is “built.”

48. In his dissent, Justice Scalia concludes by arguing that “nothing good will come of this judicially ordained turmoil, except the public recognition that any court that would knowingly impose it must hate segregation. We must find some other way of making that point.”

49. Aspects of Lakoff's perception of conservative notions of education certainly can be countered simply based on his own political views.

50. Consider Kenneth Baker's introduction to the 1987 Education Bill: "We must give *consumers* of education a central part in *decision making*. That means freeing schools and colleges to *deliver* the *standards* that parents and employers want. It means encouraging the *consumer to expect and demand* that all educational bodies do the *best job* possible."

51. See also Jean Jacques Rousseau's philosophies of education in *Emile* (1762): "plants are shaped by cultivation and men by education."

52. See Richard Thompson Ford's "The Boundaries of Race: Political Geography in Legal Analysis." (1995)

53. See Sid Salter's "Hateful Ayers Case Rhetoric has Nothing to do with Education." *The Clarion Ledger*. 8 May 1994.

54. The Supreme Court rightly claimed that it was reasonable to assume that the disparity in ACT admissions requirements between HWIs and HBCUs was the result of racism on the part of the HWIs. Historically speaking, most would agree that Mississippi's HWIs implemented higher standards of admissions as yet another means of racial discrimination. In addition, it is not difficult to surmise that via lower standards of admissions HBCUs were ensuring access to a population of students that would otherwise have been denied that access. The plaintiffs, in theory at least, wanted black students to have access at any university of their choosing, and, because statistically black students tend to score lower on the ACT exam than white students, they wanted admissions requirements that reflected this fact and did not discriminate against black

students. However, once this case reached the Supreme Court the standard of law became racial indentifiability. This resulted in the Supreme Court’s opinion that varied admissions requirements led to the channeling of black students to black universities and hence additional racial inequalities. Therefore, Biggers’ duty on remand was to determine how to implement equal standards of admissions—with no guidance from the Supreme Court on whether this meant raising or lowering standards.

55. According to the new admissions standards, students could be admitted to any Mississippi university by meeting any of the following criteria:

- Complete the College Preparatory Curriculum (CPC) with a minimum 3.2 high school grade point average (GPA) on the CPC; or
- Complete the College Preparatory Curriculum (CPC) with a minimum 2.50 high school GPA on the CPC or a class rank in the top 50%, and a score of 16 or higher on the ACT* (Composite); or
- Complete the College Preparatory Curriculum (CPC) with a minimum 2.00 high school GPA on the CPC and a score of 18 or higher on the ACT* (Composite); or
- Satisfy the NCAA standards for student athletes who are “full-qualifiers” under Division I guidelines; or

Students who do not meet the above criteria are nonetheless eligible for admission. Such students must participate, however, in an on-campus placement process at the university of their choice. These first three standards of admission are included in the original decree with discussions regarding student athletes and conditional admission in separate sections of the document. These standards have not been changed since 1995 and are listed as such on the IHL website (www.mississippi.edu/oasa/admissions.html).

56. From this point forward all italicized portions of quotations involve my own emphases unless otherwise noted.

57. The *Clarion Ledger* claims to serve the metro Jackson area consisting of Hinds, Rankin, and Madison counties. According to the U.S. Census Bureau, the total population of these three counties combined is estimated at 483,852. The racial breakdown of the counties, however, is significantly different when assessed by county lines. The black population in Hinds County is estimated at 66.3%, but Madison County is estimated at 37.4% and Rankin County is estimated at 19.9%.

58. My collection of archived articles includes all articles available in the MS Archives and History subject files and news databanks from 1987 to present.

59. See respectively: Kanengiser “20-year-old Desegregation Case Could Return to High Court”; Kanengiser “Justice Department Expands Challenge of New Admission Standards”; and Kanengiser “Ayers Judge Defends Higher College Admission Standards.”

60. See respectively: Kanengiser “New Admissions Policies Urged in Ayers Trial”; Kanengiser “Justice Department Expands Challenge of New Admission Standards”; Kanengiser “Justice Department Expands Challenge of New Admission Standards”; Kanengiser “20-year-old Desegregation Case Could Return to High Court.”

61. As quoted in Kanengiser’s “Ayers Trial Rivals Take Offensive.”

62. See respectively: Kanengiser “Tougher Standards Will Hurt Black Colleges, Biggers Told”; Kanengiser “Supporters of Ayers Appeal Will Ask NAACP for Help”; Kanengiser “Ayers Plaintiff Says Appeal is Necessary”; Kanengiser “ACT Fosters

Segregation Ayers Witness Says”; Kanengiser “College Admission Standards to be Argued in Court December 9th”; Kanengiser “Ayers Trial Rivals Take Offensive.”

63. There are articles that quote students’ concerns in my corpus; however, these representations of students’ voices are always in regards to the potential school closings, not the issue of academic standards.

64. Forrester’s files are housed at the Mississippi Department of Archives and History.

65. PUSH, Inc. is now the Rainbow Push Coalition headed by Rev. Jesse Jackson.

66. Another interesting aspect of these letters involves the state’s responses. The response letter to PUSH was written by Jeanne Forrester at the request of Governor Fordice. Forrester’s response begins: “Governor Fordice forwarded your letter to me and asked that I respond. I am the Governor’s executive advisor on education and have been responsible for tracking events concerning the Ayers case.”

67. See the four letters listed as authored by Fordice in the Works Cited.

68. I should note that Fordice did respond to letter from the U.S. Department of Justice, Civil Rights Division, but I consider this to be different given the sender represented the U.S. Government. In addition, one of the state’s attempts to address complaints that black citizens were not included in discussions regarding resolution of the *Ayers* case involved the creation of a twelve-member citizens task force to complement the existing advisory panels appointed by Governor Fordice. According to *Clarion Ledger* articles regarding this lay panel of citizens, the task force would be overseen by Jeanne Forrester (Fordice’s education advisor), the Lt. Governor, Eddie Briggs, and the House Speaker, Tim Ford. Critics argued that the panel was a smoke screen designed to

“spare Fordice criticism in university fuss.” Supporters claimed the new group was needed to pull together citizens “who don’t have a vested interest and don’t have a political interest” to help determine the appropriate direction for higher education in the state after the U.S. Supreme Court ruled further actions were necessary in order to ensure the desegregation of state institutions of education. Correspondence regarding membership in this committee of citizenry provides additional examples of the ways in which conceptual metaphors trickle down to institutions of education via politics.

I was able to locate eight letters from citizens interested in serving on the governor’s lay council regarding Ayers in Jeanne Forrester’s, Governor Fordice’s Education Advisor, files. These letters range from brief memos indicating interest, to cover letters detailing the interested party’s qualifications, to hand-written letters. Interestingly enough, none of the letters included in Forrester’s files are written by black Mississippians.

69. See Clark and Ivanic’s *The Politics of Writing* (1997).

70. The SDP was designed by Dr. Hunter Boylan, the Director of the National Center for Developmental Education and concentrates on reading, writing, and math—skills considered necessary for a successful college career. At the time of its implementation in Mississippi it had not been piloted, but the court deemed it to be “credible and educationally advanced” (64). Interestingly, the SDP became synonymous with remediation in Biggers’ 1995 mandate, leading some to believe that universities would abolish other forms of remedial programming to the detriment of students who might not participate in the SDP. As mentioned in Chapter Two, the Appeals Court agreed with this complaint and decreed that the SDP could not replace additional remedial programming at the state’s universities.

These various rulings were incorporated into the IHL 2001 Settlement Agreement that outlined the fiscal aspects of the *Ayers* rulings. According to the settlement each university is required to offer the SDP through 2010 (ten years after the settlement) and the State Legislature is expected to provide special funding for student financial assistance to attend the SDP in the amounts of \$500,000 annually for FY 2002-FY2006 and \$750,000 annually for five additional years (FY2007-2011). In addition the opportunities for enrollment in the SDP are to be widely publicized in the state. This is especially significant as this means summer 2011 is the last summer that universities will be *required* to offer the SDP. Our current provost claims that the SDP is essential and that USM will continue to offer the program.

71. See discussion regarding USM Student Success Center.

72. See Appendix A for our proposal to USM's Academic Council regarding our Expanded pilot. See also Appendix B for the report submitted to Academic Council at the year's end.

73. PDF versions of the brochure are attached as Appendix C.

74. See Appendix C.

75. See Appendix C.

76. Currently, these classes use Bruce Ballenger's *The Curious Writer*. Students write a photo memoir, a review essay, an ethnography, and a problem/solution proposal.

77. See Appendix D.

78. See www.kafkaonline.com

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